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**PROMOTION AND PROTECTION OF HUMAN RIGHTS
HUMAN RIGHTS DEFENDERS**

Written statement submitted by the South Asia Human Rights
Documentation Centre, a non-governmental organization
in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 December 1999]

Human rights defenders face financial squeeze

1. On 10 December 1998, the United Nations General Assembly, by its resolution 53/144, adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (popularly known as "Declaration on Human Rights Defenders") to mark the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights. Yet many Governments are less than pleased with the adoption of the Declaration and have sought to undermine the minimalist aspirations of the Declaration.

2. A few Governments have adopted a conscious policy to harass human rights defenders since the adoption of the Declaration. India, which prides itself on being the largest democratic country in the world, seems to have joined the select club of these few countries. On human rights issues, the Government of India feels more comfortable being in the company of authoritarian countries, including its neighbour, Pakistan. In May 1999, the Government of Pakistan unilaterally de-recognized about 2,000 non-governmental organizations (NGOs) in Pakistan. The largest democratic country of the world, India, could not be seen to lag behind.

3. From mid-1999, NGOs organizing international conferences in India have been required to seek prior permission from the Ministry of Home Affairs and other relevant ministries before hosting or inviting international events or participants. Known as the clearance requirement, NGOs are required to submit personal details of international participants. The clearance requirement is not pursuant to any law. The new requirements are simply a new executive caprice on the part of the Government of India.

4. Since 10 December 1998, the Government of India has not allowed the World Commission on Dams to hold its meetings in India, banned an international conference on Burma organized by the International Confederation of Free Trade Unions, and denied visas to participants in the John Hopkins Philanthropist Conference.

5. Since September 1999, the Government of India has intensified its efforts to restrict the activities of NGOs by breathing new life into an anachronistic, Emergency-era statute. On 25 September 1999, two officials of the ruling party, the Bharatiya Janata Party (BJP), in separate statements called for the investigation and punishment of 13 NGOs for their sponsorship of a newspaper advertisement criticizing the Hindu fundamentalist party's positions on women's issues. The party officials assailed these organizations as "anti-national and anti-Indian" - not only on account of their sponsorship of the advertisement, but also based on their criticism of the Pokhran nuclear tests of May 1998.

6. Within days of these statements, the Indian Home Ministry dutifully served notice upon several of the 13 NGOs, presumptively classifying the groups as "organization[s] of a political nature, not being a political party" under section 5 (1) of the draconian Foreign Contribution Regulation Act (FCRA). If unable to rebut this classification, these NGOs would be required to obtain prior permission from the Home Ministry before receiving any foreign contributions.

When another NGO, the Voluntary Action Network India (VANI), publicly defended the groups, it too was promptly informed that the Home Ministry intended to cancel its registration to receive contributions from abroad without prior permission. According to information available, in addition to these 13 NGOs a large number of NGOs across the country have been served notice by the FCRA Department of the Indian Home Ministry.

7. FCRA requires all Indian organizations and individuals that seek to receive foreign contributions to receive clearance from the Ministry of Home Affairs, in the form of either registration or prior permission. Curiously, the Home Ministry has been highly selective in its efforts to regulate foreign funds in Indian political and social life. The Sangh Parivar (the family of Hindu fundamentalist organizations) and government officials have expressed outrage over the role allegedly played by foreign funding in support of Christian and Muslim organizations. However, Sangh Parivar organizations are among those receiving the most foreign contributions in India. It has been reported, for example, that the Vishwa Hindu Parishad (VHP) (World Hindu Council) has raised and remitted to India at least \$1.25 billion (approximately Rs 53 billion) from the United States since 1977 with much of this money apparently being used to fund schemes that seek to intimidate tribal peoples from converting to Christianity or Islam.

8. Even the BJP itself - which, as a political party, is subject to more stringent restrictions under FCRA - has received substantial foreign contributions. The party's United States arm, the "Overseas Friends of the BJP", routinely hosts expensive fund-raisers and has sent large delegations to India to campaign on behalf of BJP - trips that are presumably financed with foreign funds. The Home Minister, Mr. L. K. Advani, has, however, turned a blind eye to this conduct by members of his ideological fraternity.

9. These examples reveal a pattern of arbitrary enforcement of FCRA that violates fundamental freedoms guaranteed by the Constitution of India and international human rights law. On its face and as applied, FCRA violates article 19 of the Constitution of India and several international human rights instruments that guarantee freedom of expression and freedom of association including articles 19 (3) and 22 (1) of the International Covenant on Civil and Political Rights, ratified by India in 1979. The Government's arbitrary application of FCRA also violates guarantees of equality and due process under articles 14 and 21 of the Constitution of India. Moreover, the decision to target NGOs that criticize the Government's record on women's rights raises serious questions about the Government's commitment to implementation and enforcement of the Convention on the Elimination of All Forms of Discrimination of Women, which India ratified in 1993.

10. While the Government has a legitimate interest in holding NGOs accountable for financial or other wrongdoing, normal regulatory and criminal justice procedures provide sufficient institutional resources to accomplish this task. Narrowly tailored financial reporting requirements for NGOs serve legitimate governmental interests and should remain in place. However, these laws should be administered by the Ministry of Finance, rather than the highly politicized Home Ministry. And to the extent that the direct channels of political participation

are to be reserved for Indian citizens, the proper targets of regulation are political parties and the candidates they field for office, not voluntary organizations and advocacy groups.

11. Democracy and human rights depend upon the vitality of civil society which, in turn, depends upon the ability of NGOs to operate free of arbitrary legal obstacles. The Government's heavy-handed use of FCRA to restrict the legitimate activities of politically disfavoured NGOs represents yet another troubling retreat from India's democratic tradition. The subtle undemocratic measures severely restricting the activities of the actors of the civil society are becoming the hallmark of Indian democracy.



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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA
AND ALL FORMS OF DISCRIMINATION**

Written statement submitted by Human Rights Watch, a non-governmental
organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31

[30 December 1999]

1 The impact of the criminal justice system on minority groups, particularly African Americans, remains one of the most important and disturbing human rights issues facing the United States. Overwhelming data establish the strikingly disproportionate number of African Americans, relative to their share of the United States populations, who have been stopped by the police, arrested, convicted and sentenced for crimes. On any given day, one in three young Black American males is either in prison or jail, on probation or parole. This racial disparity exists even though United States criminal laws are racially neutral on their face, and police authorities insist that law enforcement, prosecution and sentencing are free of racial bias. Federal and state laws also prohibit discrimination on the basis of race or ethnicity.

2 It is no easy matter to determine whether and to what extent the racially disparate impact of the criminal justice system is the result of racial bias and discrimination. Few honest observers would deny that the influence of race is very clearly seen in at least some areas of the criminal justice system. It is blatant and intentional in, for example, the police practice of racial profiling - stopping men and women for questioning simply because of their race. In the State of New Jersey, for example, Blacks were almost five times more likely as other drivers to be stopped by the police on the highway. Some argue that infamous cases of police brutality against Blacks - the beating of Rodney King in Los Angeles in 1991, the rape of Abner Louima in 1997 and the killing of Amadou Diallo in 1999, both in New York - are only the more visible and horrific examples of pervasive racial bias in police practices. Forty-three per cent of the 3,452 men and women on death row are Black and research has demonstrated that the race of both the victim and the offender counts heavily in the determination of whether a crime will be punished with death rather than life in prison.

3 While the conscious prejudices of individual actors undoubtedly play a role in the criminal justice system, contemporary race discrimination in the criminal justice system is frequently subtle and diffuse, revealed particularly in patterns of racially disparate impact - and in their toleration by the White political majority. Racial disproportions in the national prison population testify powerfully to the inextricable link of race and the criminal justice system. Although Blacks constitute 13 per cent of the United States population, they comprise almost 50 per cent of the prison population. African Americans have an eight-times-greater chance of being incarcerated than do Whites. Although young Black men in their twenties and thirties constitute 2 per cent of the national population, they constitute one third of all admissions to prison, they are incarcerated at a rate 17 times greater than the national rate. Thirteen per cent of Black men are disenfranchised because of felony convictions.

4 Although race has been shown statistically to affect different stages of criminal prosecutions and certain sentencing outcomes, and although intentional racial bias is no doubt present in certain individual cases, wholesale race discrimination does not account for the shocking racial composition of United States prisons. Most modern empirical analyses have concluded that factors other than race discrimination account for most of the disproportionate representation of Blacks in United States prisons. With the conspicuous and critical exception of drug law enforcement, patterns of Black offending and Black criminal records account for most - although not all - of the disparity in incarceration rates. For the past two decades, for example, Blacks have constituted between 43 and 47 per cent of arrests for violent crime - crime which is usually punished with prison sentences.

5 Racially different patterns of crimes of violence and imprisonable property crimes are not, however, the sole cause of modern race disproportions in United States prisons. Since the onset of the "war on drugs" in the mid-1980s, Black Americans have been arrested, prosecuted, convicted and imprisoned for drug law offences at rates grossly out of proportion to their numbers among drug offenders. Although drug use and selling cut across all racial, socio-economic and geographic lines, law enforcement strategies have targeted street-level drug dealers and users from low-income predominantly minority urban areas. For a variety of reasons, it is easier to make arrests in these neighbourhoods as contrasted with, for example, suburban neighbourhoods with mostly White populations.

6 As a result, although Blacks constitute an estimated 15 per cent of all drug users and both Whites and Blacks sell drugs, Blacks constitute 36 per cent of arrests for drug possession and half of all arrests for drug selling. Blacks entering the criminal justice system on drug charges have suffered the impact of the more punitive approach to drug offences that has prevailed since the mid-1980s. Harsher attitudes toward drug offenders and changes in drug sentencing, particularly the advent of mandatory sentencing laws imposing stiff prison sentences even on minor offenders, increased the proportion of arrested drug offenders who are sentenced to prison and the length of time offenders serve in prison. The chances of receiving a prison term following a drug offence arrest increased 447 per cent between 1980 and 1992. The cumulative effect of higher rates of arrest and imprisonment is the striking disproportion of the racial composition of imprisoned drug offenders. Fifty-six per cent of all drug offenders in state prison are Black. Nearly 40 per cent of all Blacks sent to prison have been convicted of drug offences. Between 1985 and 1995, the number of Black drug offenders in prison increased by 707 per cent, the number of White offenders increased by 306 per cent.

7 In some states, the racial impact of drug control efforts is even more startling. In seven states, Blacks accounted for between 80 and 90 per cent of all admissions to prison on drug charges. In one state, Blacks are 39 times more likely to be incarcerated for a drug offence than Whites. In another, Blacks eligible for life sentences as repeat drug offenders were five times more likely to receive a life sentence than life-eligible Whites and received 98 per cent of all such life sentences.

8 The much harsher sentences mandated under federal law for crack cocaine compared to powder cocaine offenders have also had a startling but readily foreseeable racially disparate impact. Although pharmacologically identical, crack is sold in smaller quantities and is much cheaper to obtain than powder, largely as a result, it spread rapidly among drug offenders in the late 1980s. Citing concern about the violence associated with the distribution of crack, the drug's allegedly higher addictive attributes and its effects on minority neighbourhoods, the federal Congress enacted mandatory sentencing laws that punished crack cocaine-related offences far more harshly than those related to powder cocaine. Although the prevalence of both crack and powder cocaine use is higher among Whites than African Americans (more than half of all crack cocaine users are White), 96 per cent of those prosecuted for crack possession and facing the higher crack sentences are Black or Latino. Higher arrest and prosecution rates for African American drug offenders and the long mandatory prison sentences imposed for crack cocaine offences in contrast to powder cocaine are a principal reason that Blacks account for 60 per cent of the federal prison population.

9. Despite the abatement of the crack epidemic and the growing realization that the differential punishment for crack versus cocaine lacks scientific or social justification, Congress has refused to eliminate the sentencing differential. Its unwillingness to act is influenced by "tough on crime" views that favour punishment as the response to drug use. But many people believe it has more racially invidious roots as well - they suggest that Congress would never countenance a sentencing scheme that had as disproportionately harsh an impact on White communities.

10. The racially disparate impact of current drug control efforts prioritizing criminal prosecution and harsh mandatory sentences raises serious questions about the willingness of the United States to meet its international human rights obligations. The right to be free of discriminatory policies cannot be sacrificed to drug control strategies. Elected officials and law enforcement personnel have a choice of strategies with which to protect communities and reduce drug dealing and drug abuse. In choosing to prioritize arrests and imprisonment of drug offenders, the United States opted for policies that have had a devastating effect on Black communities. Given the availability of alternative strategies that would not yield such egregious racial disparities, Human Rights Watch has concluded that current drug control policies are not only profoundly misguided and destructive, but reflect a failure in the past of the United States to honour its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights.



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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD

Written statement submitted by Human Rights Watch, a non-governmental
organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[30 December 1999]

China

1. Human Rights Watch has repeatedly expressed its view that the United Nations Commission on Human Rights must take account of China's international human rights obligations. Over the past year there has been a tightening of controls on basic freedoms in China, many trials of political dissidents, and intensified efforts to suppress ethnic minorities in Tibet and Xinjiang. We call on the Commission to adopt a strongly worded resolution condemning the widespread violations of internationally recognized human rights in China and urging the Government to take positive steps to end these abuses.
2. We draw the Commission's attention to China's misuse of "rule of law" rhetoric to justify restrictions on the peaceful expression of views by those who may oppose official policy or organize independent activities. New regulations have been adopted which further erode the rights of China's citizens to free expression, association, assembly, belief, and to fair and open trials.
3. In October 1998, China's State Council promulgated stringent new Social Organization Registration and Management Regulations which bar non-profit and voluntary groups from operating without Government approval. Approval is contingent upon, *inter alia*, the applicant's abiding by the State's policy as defined by the State itself. In recent months, the authorities have used these controls to shut down groups such as Corruption Watch and the China Democracy Party (CDP). In 1999, CDP leaders were sentenced to prison terms as long as 13 years for their peaceful dissent. This past year, new regulations were adopted limiting public assembly by requiring the consent of the relevant Public Security Bureau for every gathering of 200 people or more, including concerts, sporting events, "qigong or other body exercisers and mass congregations". No application would be considered without prior approval from the appropriate government bureau.
4. The Government of China has applied new interpretations of its criminal law retroactively in its campaign against what it has labelled "heretical cults", such as the Falun Gong, before definitively banning them last October. By so doing, the Government has arrogated to itself the right to determine what constitutes a legitimate religion or belief structure and what is simply ignorant superstition. Religious congregations which refuse the close scrutiny provided for in government regulations continue to be closed down and their leaders and members subjected to harassment, fines, and administrative and judicial sentences.
5. Defendants in politically charged trials continue to have difficulties finding lawyers, their families are barred from attending trials, and judges openly favour the prosecution, frequently curtailing a defendant's right to speak on his own behalf. A series of regulations still permit a committee to administratively sentence thousands of citizens annually to punishments ranging from 15 days to 3 years for a loosely defined set of offences.
6. In Tibet and in Xinjiang, treatment of prisoners routinely violates the United Nations Standard Minimum Rules for the Treatment of Prisoners. There have been at least four deaths in

Tibet in 1999 resulting from torture and beatings. In the latest case, the detainee died from injuries sustained as he was apprehended. Details of 11 rumoured deaths in connection with two protests in Drapchi prison in May 1998 during a European Union visit have recently come to light. Chinese authorities have never responded in full to requests for information. Similarly, in Xinjiang, torture is commonly used to extract "confessions".

Colombia

7. Armed conflict intensified in Colombia during the past year as negotiations between the Government and guerrillas stalled. The administration of President Andrés Pastrana was slow to develop a plan to improve human rights protections even as guerrillas used territory ceded to them not to talk peace, but to further war. Paramilitary groups working in some areas with the tolerance and open support of the armed forces continued to massacre civilians, commit selective killings, and spread terror. Guerrillas also flouted international humanitarian law, executing and kidnapping civilians and carrying out indiscriminate attacks. Throughout the country, Colombians fled political violence, with waning chances of finding refuge, food and medical care.

8. The Departments of Antioquia, Meta, Santander and Bolivar remained among the most dangerous. Victims ran the gamut of Colombian society. In 1999, paramilitaries were considered responsible for 78 per cent of the total number of human rights and international humanitarian law violations. For their part, guerrillas were credited with 20 per cent. State forces were linked to 2 per cent. Some government officials claimed ties to paramilitary groups were severed and cited the low percentage of violations credited to State forces acting alone. However, the percentage does not reflect State forces that routinely assisted paramilitary atrocities. Indeed, cooperation between army units and paramilitaries remained commonplace. For instance, government investigators detailed direct collaboration between the Medellín-based Fourth Brigade and paramilitaries commanded by Carlos Castaño.

Sierra Leone

9. In July 1999, a peace agreement was signed between the Government of Sierra Leone and the rebel forces of the Revolutionary United Front (RUF). During the war, RUF committed gross and systematic abuses, including the indiscriminate murder of civilians; mutilation; rape; abduction of civilians for purposes of sexual slavery, forced labour and training as child combatants; and the use of civilians as human shields. Government forces, including civilian militias and the peacekeeping troops of the Nigerian-led Economic Community of West African States Monitoring Group (ECOMOG), also committed serious abuses, including summary executions of suspected rebels or collaborators, use of child soldiers and indiscriminate bombings. Human Rights Watch is deeply concerned about the provision of the peace accord that grants amnesty for all crimes committed during the war.

10. The consequences of the impunity for human rights violations and the lack of international attention to enforcing the peace agreement can be seen in ongoing human rights abuses. From July through December 1999, Human Rights Watch documented violations by members of RUF and the former Sierra Leonean army (ex-SLA) including looting, rape, murder, torture and abduction. Scores of villages have been attacked forcing thousands of civilians to flee.

11. The peace agreement included the establishment of a truth and reconciliation commission (TRC) to address issues of impunity. However, the future TRC will never be able to function effectively without a database which currently does not exist, from which to work. The Commission on Human Rights should therefore establish a commission of inquiry into past abuses charged with creating the database necessary for the future TRC.

Democratic Republic of the Congo

12. The conflict in the Democratic Republic of the Congo continued through 1999, notwithstanding the Lusaka Peace Agreement signed in July and August by the main warring parties. The war aggravated an already dire human rights situation in the country, where civilians pay the heaviest toll. The Government and rebels alike routinely resort to extrajudicial killings, arbitrary detentions and inhumane and degrading treatment of their perceived ethnic and political adversaries. Both parties to the conflict extensively recruit child soldiers and are responsible for violence against women. Hundreds of thousands of civilians have been internally displaced or fled to neighbouring countries. The rebels' repression of Congolese civil society is rivalled by equally repressive tactics against dissenting voices by President Kabila's Government.

13. In 1999, the Commission requested the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to investigate the killings of refugees in 1996-1997. Accountability for past as well as current abuses committed in the country remains a matter of utmost urgency. We therefore call on the Commission to renew the mandate of the Special Rapporteur, including continued investigation into events of 1996-1997, and to provide the necessary support for the Special Rapporteur and the field office of the Office of the High Commissioner for Human Rights in Kinshasa.

Uzbekistan

14. Human Rights Watch, noting the rapid, severe and intransigent deterioration of human rights in Uzbekistan, calls on the Commission on Human Rights to appoint a Special Rapporteur on that country. Since the end of 1997, and in particular since February 1999, when terrorist explosions struck the capital, Tashkent, the Government has ordered the arrest of thousands of men for purported anti-Government activity. The arrests have continued throughout 1999. The exact numbers are not known, owing to the Government's tight control on information. Witnesses interviewed by Human Rights Watch describe universal violations of the detainees' due process rights, including the planting of evidence by police during arrest, denial of access to counsel, beatings and other forms of torture to extract confessions, and patently unfair trials.

Those arrested are sometimes convicted not only of anti-State activity but of membership in forbidden Islamic organizations, often purely on the basis of outward acts of piety, such as regular prayer at home or Koranic study. Frequent violations of rights include the right to freely espouse one's religion. Since 1998, the Government has restricted religious freedom by convicting adherents of suspect religious tendencies, both Christian and Muslim, of criminal offences, by refusing to register congregations and by forbidding the dissemination of religious literature and religious teaching by persons not approved by the State. The Government similarly severely restricts political rights and basic civil rights such as freedom of expression and freedom of association.



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CIVIL AND POLITICAL RIGHTS

Written statement submitted by Human Rights Watch, a
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The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 December 1999]

Cuba

1 Cuban law severely restricts the exercise of fundamental human rights of expression, association, assembly, movement and the press. Laws criminalizing enemy propaganda, the spreading of "unauthorized news" and the insulting of dead heroes, among others, effectively deny freedom of speech under the guise of protecting State security. Authorities also imprison or order the surveillance of individuals who have committed no illegal act, relying upon laws penalizing "dangerousness" (*el estado peligroso*) and allowing for official warning (*advertencia oficial*). In 1999, the Government created new legal mechanisms to strengthen its repressive authority. Cuba's National Assembly approved the Law for the Protection of the National Independence and the Cuban Economy (*Ley de Protección de la Independencia Nacional y la Economía de Cuba*) in February, establishing harsh penalties of up to 20 years for any actions that could be interpreted as support for the United States embargo against Cuba.

2 Cuba also clamped down on dissidents and other activists in 1999, evidenced by, most notably, the trial and conviction of four leaders of the Internal Dissidents' Working Group. The Government controlled the courts, undermining the right to a fair trial by restricting the right to a defence. The Council of State, a political entity presided over by President Castro, reviewed death penalty cases, undercutting judicial independence. At least 12 prisoners were reportedly executed in 1999.

Peru

3 The Government of President Alberto Fujimori continues to weaken civil and political rights by intervening in the judiciary and in autonomous constitutional bodies designed to monitor and protect the rule of law, including the Constitutional Court and the Attorney General's office. The National Intelligence Service (Servicio de Inteligencia Nacional, SIN), acting on the orders of its de facto head, Vladimiro Montesinos, has been widely accused of political espionage, harassment, violations of freedom of expression and manipulation of governmental bodies. These actions appear to be specifically designed to undermine opponents of President Fujimori's efforts toward his second re-election in the year 2000, and to harass his electoral competitors.

4 In June 1998, Peru unilaterally withdrew its recognition of the jurisdiction of the Inter-American Court of Human Rights. This unprecedented move occurred after the Court ordered Peru to grant a new trial to four Chileans convicted of treason in 1994 by a "faceless" military court, having determined that the defendants had been denied due process. The court was also due to consider a demand for the reinstatement of three Constitutional Court judges who had been dismissed for voting against President Fujimori's right to stand for re-election.

Sudan

5 The Government of the Sudan is responsible for systematic violations of civil and political rights. Torture is a serious problem and rather than combating impunity, the judicial system is used against political opponents of the Government. However, the Government in December 1999 finally released Fr. Hilary Boma, chancellor of the Archdiocese of the Catholic Church in Khartoum, Fr. Lino Sebit, and 18 others who had been held for 16 months in

connection with an alleged sabotage conspiracy in the most notorious example of selective prosecution. There has been no suggestion of reparations or compensation for the torture they suffered. Three other men detained with them died under torture in August 1998.

6. The Government permitted political associations to register after a ban imposed when it took power through a military coup in 1989. It timed state assembly elections so soon after, however, that the newly registered political parties declined to present candidates. Most parties continue to function only from exile.

7. Freedom of assembly, association and expression have been violated through arrests and bans on meetings, protests and unregistered organizations. Two large Sufi Muslim religious brotherhoods, the Ansar and the Khatmiyya, are associated with the banned Umma and Democratic Unionist Party (DUP) opposition parties. The religious leaders are intermittently detained and harassed.

8. The Government has a policy of harassment of Christian Churches and permits zealous Muslims at local levels to harass Christians and destroy their places of worship, although some local officials do not permit this. Apostasy, or conversion by Muslims to another faith, is a capital crime. The Khartoum state government continued to destroy Christian structures (schools and places of worship) along with slum housing, preventing the consolidation of southerners and Nubas in urban neighbourhoods. It rarely granted building permits to Christian denominations while freely granting permits for mosques. The Khartoum state government appears to want to close all the Catholic schools, which provide (free) primary education for 48,000 mostly southern and Nuba students in poor neighbourhoods, although its efforts have been thwarted so far.

9. Public order police continue to harass women and monitor women's dress for orthodoxy. Women guards are posted outside universities to ensure that women students wear the prescribed baggy garments. In June the public order police raided a picnic and detained 25 Nuba students, 9 of them women. They were convicted of publicly meeting without public order police permission. The women students also were convicted of wearing an indecent or immoral uniform (trousers). The court sentenced the students, including the women, to 40 lashes each and fines; the women were flogged despite a decree that women would no longer be flogged except for crimes such as adultery or drinking alcohol.

10. The Government denied all allegations of the existence of slavery until May 1999, when it acknowledged the problem of "abduction and forced labour of women and children" and set up a committee to address it. Its work retrieving children held in forced labour has proceeded, but it has not done anything noticeable to end the militia and army raids to capture slaves in the south of the country.

11. The most serious abuse of the rebel Sudan People's Liberation Army (SPLA) is the armed ethnic conflict between its Bor Dinka soldiers and the Didinga tribe which formerly supported SPLA until its abuses - summary executions, torture, stealing food - led the Didinga to revolt. SPLA planted antipersonnel land mines freely in the area. Despite many peace delegations, SPLA has not implemented the recommendations to end this slaughter.

12. Given these and other serious human rights abuses in the Sudan, it is imperative that the mandate of the Special Rapporteur be extended. In addition, the High Commissioner for Human Rights should establish monitoring offices in the Sudan to report on human rights abuses in government and rebel-controlled territory.

United States of America

13. In the United States, Human Rights Watch is concerned about the conditions of confinement and treatment of the approximately 16,500 individuals held daily by the United States Immigration and Naturalization Service (INS) in detention centres and jails around the country. They are asylum-seekers, undocumented immigrants, unaccompanied minors and individuals detained after serving criminal sentences; approximately 3,500 of whom face indefinite detention.

14. We are particularly concerned by the INS practice of holding more than half of its detainees in local jails. At these jails, the INS administrative detainees are treated the same as the criminal inmates held there. INS has also failed to create or implement standards for conditions or treatment and has failed to provide adequate oversight at the jails. Our research has found that: INS detainees often shared living and recreation space with convicted criminals; medical and dental care were extremely limited and typically of poor quality; detainees were frequently transferred from facility to facility with no apparent consideration by the INS for location of family or legal counsel, who were often given no notice of the transfer; staff at local jails were ill-equipped to deal with a multilingual population; disciplinary sanctions were liberally applied to INS detainees, sometimes as a result of linguistic or cultural miscommunications; and detainees reported instances of serious physical abuse by jail staff.

15. Detainees facing indefinite detention - because they are stateless, cannot obtain identification documents from their home countries, or their country of origin will not accept their return and the United States prohibits their release - face a particularly egregious form of arbitrary detention. Belatedly, INS has recently instituted rules requiring mandatory reviews of those detainees who cannot be returned or released. The detainees must prove that they are not a danger to society, have community or family ties, and have been "rehabilitated". There are reports from immigrants' rights groups that these guidelines are not being followed consistently and that each INS district is applying the new rules differently. Furthermore, proving "rehabilitation" is nearly impossible for most detainees, especially those held in jails, because activities or programmes that might show rehabilitation are not provided.

16. We recommended that the Working Group on Arbitrary Detention conduct an investigation of the immigration detention practices and policies of the United States. The Working Group should examine whether the detention of these individuals is warranted, and whether INS has taken adequate steps to address problems faced by those unlucky enough to be held in local jails or those who face indefinite detention.



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RIGHTS OF THE CHILD

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The Secretary-General has received the following written statement which is circulated in
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Violence against children: the need for a Special Rapporteur

1. Human Rights Watch urges the Commission on Human Rights to consider the appointment of a Special Rapporteur on violence against children.
2. Children throughout the world are subjected to violence that results in physical injury, psychological trauma, and even death. Street children are too often subject to arbitrary detention and abuse by police; children in correctional or other institutions may be beaten or tortured by guards or facility employees; children in refugee camps may be beaten or sexually abused; children in schools may be subjected to severe beatings by their teachers; others are victims of summary executions.
3. In recent years, the rights of children have been increasingly recognized by the international community. The nearly universal ratification of the Convention on the Rights of the Child, adopted just 10 years ago, demonstrates a strong commitment to broad protections for children worldwide and prohibits all forms of physical or mental violence, injury or abuse. Nonetheless, violence against children is pervasive, and too often carried out with impunity. In many cases, the failure of law enforcement bodies to promptly and effectively investigate and prosecute cases of abuses allows the abuse to continue. These acts of violence are often seen as lamentable yet isolated incidents rather than global phenomena. And the unique vulnerability of children prevents them from speaking out in their own defence.
4. Many instances of violence against children may fall within the mandates of current human rights mechanisms, including the Special Rapporteurs on the sale of children, child prostitution and child pornography; on extrajudicial, summary or arbitrary execution; on the question of torture; on violence against women; and on traditional practices affecting the health of women and the girl child; as well as the Working Groups on Arbitrary Detention, on Enforced or Involuntary Disappearances, and on Contemporary Forms of Slavery. However, the broad scope of these mechanisms rarely allows for focused attention on the particular vulnerabilities of children and the violence that they suffer as a result, and others (such as the new Special Rapporteur on Children's Rights in the Americas of the Inter-American Commission on Human Rights) may be limited in geographic scope.
5. While efforts to mainstream children's rights should and must continue, the existing framework of mechanisms is unable to give adequate attention to the pervasive violence against children, or to help the international community recognize and address it as a single global phenomenon. A Special Rapporteur on violence against children would help change the way abuses against children are viewed, bring needed international attention to this pervasive international problem, and help bring States' practices into conformity with the Convention on the Rights of the Child and other relevant standards.
6. In addition to Human Rights Watch, non-governmental organizations supporting the appointment of a Special Rapporteur on violence against children include the African Network for the Prevention and Protection against Child Abuse and Neglect, Casa Alianza/Covenant House Latin America, and the World Organization against Torture.

Background

7. In many countries throughout the world, children living or working on the street are beaten and assaulted and sometimes killed by police. A good deal of attention has been paid over the years to street children, but it has largely focused on social and economic problems: lack of schooling, poverty, health, prostitution, glue sniffing and the like. With the exception of Brazil, Guatemala and Colombia, where widespread publicity revealed that children are being slaughtered, in some cases by police themselves, little notice has been taken of the constant violence to which street children are subjected by police around the world. Human Rights Watch has found that in Bulgaria, India, Guatemala and Kenya, to name but a few countries, children are rounded up on the street, beaten and sometimes sexually abused, are taken to police stations and beaten again, detained arbitrarily and, in many cases, sent to "schools" that are little more than prisons from which the children cannot leave. These are not children who have been charged with crimes, but children whose "crime" is to live or work on the street.
8. In some countries, Pakistan for example, children are tortured during interrogations by police, who often use the same appalling techniques used against adults including being beaten, hung upside down, or whipped with a rubber strap. Torture is used to get information, to punish, intimidate, or extort payment from detainees. Most detainees remain at police stations without being brought before a judge well beyond the 24 hours permitted by law.
9. Children in juvenile and criminal correctional institutions around the world are frequently beaten and abused, sometimes sexually, by guards. Human Rights Watch has found this to be true in the United States, Guatemala, Kenya, Bulgaria, Pakistan and India. Moreover, children are often kept in severely overcrowded facilities where they are assaulted by other inmates, both children and adults; guards fail to protect them from these assaults.
10. Investigations in juvenile detention facilities in the United States have found unsafe conditions, physical abuse by staff and excessive use of disciplinary measures. Children are frequently incarcerated in jail-like facilities, where they may be bound to a bed by their wrists and ankles as a disciplinary measure, or stripped naked and shackled to a toilet for showing signs of suicidal behaviour.
11. An unknown number of children around the world, most likely in the millions, are kept in orphanages and other non-penal institutions. Many of these children are placed in grossly sub-standard facilities where they are subjected to cruelty and neglect. Ironically, the personnel of the very State institutions that are responsible for nurturing and providing for the children often physically and sexually abuse children in their care, and subject them to cruel and degrading treatment. A recent Human Rights Watch investigation of Russian orphanages revealed that children may be restrained in cloth sacks, tethered by a limb to furniture, beaten, or locked in freezing rooms for days at a time.
12. In many countries, corporal punishment is permitted in schools. Regulations are often disregarded, and schoolchildren are beaten with branches, sticks, belts or other dangerous implements. As a consequence, students have been seriously injured, suffering broken limbs, concussions and loss of hearing. In some cases, children have even been killed by their teachers or principals.

13. Children are also subject to violence and abuse in the home. Some States do not have laws to protect children from intra-family violence; others fail to implement such laws to protect children.

Potential scope and mandate of a Special Rapporteur

14. Human Rights Watch urges the Commission on Human Rights to consider the appointment of a Special Rapporteur on violence against children whose primary responsibilities would be to monitor adherence to the standards protecting children, investigate abuses, and present constructive recommendations to better protect children from violence and abuse. The Special Rapporteur would work in cooperation with the Committee on the Rights of the Child and other concerned United Nations bodies. Human Rights Watch recommends that the specific issues to be examined by the Special Rapporteur include:

- Abuse by police and other law enforcement authorities;
- Abuse by employees in juvenile correctional facilities, orphanages or other institutions;
- Corporal punishment;
- The use of the death penalty against children;
- State failure to prevent violence in the home.

To avoid overlap with the mandate of the Special Representative of the Secretary-General on Children and Armed Conflict, the focus of the Special Rapporteur would not include violence against children in war during the tenure of the Special Representative.

15. The responsibilities of the Special Rapporteur could be carried out by:

- Seeking and receiving credible and reliable information from Governments, United Nations bodies, specialized agencies, regional intergovernmental organizations and non-governmental organizations, as well as medical, forensic or other experts, and responding to the information presented;
- Making site visits to investigate allegations of violence and abuse and making reports and recommendations to the Governments involved;
- Monitoring the implementation of existing standards;
- Educating and advising States on bringing their practices into conformity with the Convention on the Rights of the Child and other relevant standards;
- Promoting exchanges of views between Governments and those who provide reliable information;

- Making annual reports to the Commission on Human Rights and the General Assembly, detailing findings, as well as conclusions and recommendations on ways and means to better protect children from violence;
- Issuing urgent appeals to Governments regarding particularly serious cases;
- Cooperating with other United Nations mechanisms and procedures in the field of human rights, including regional mechanisms;
- Compiling and analysing existing rules and norms, root causes of the problem, and preventive and long-term solutions, taking into account specific situations.

16. On a daily basis, life-threatening abuses are perpetrated against children on the streets, in schools, in the workplace, in institutions, and in the home. The international community has a responsibility to do more to protect children from such violence. The appointment of a Special Rapporteur on violence against children is one important step.



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**SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES
AND DISPLACED PERSONS**

Written statement submitted by Human Rights Watch, a non-governmental
organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[30 December 1999]

Internal displacement: a global problem

1. Of the 50 million people worldwide who have been forced to flee their homes, some 30 million are believed to be internally displaced within their own countries. Most internally displaced persons experience conditions of extreme hardship and enjoy limited international assistance and protection. Despite their numbers, there exists no international agency or legally binding instrument specifically to provide international protection and assistance to the internally displaced.

2. Internal displacement is a global problem. The conflicts of the past decade have increasingly been internal ones and their victims frequently civilians. Indeed, the systematic displacement of whole populations, or particular ethnic or minority groups, has become a deliberate strategy of many contemporary conflicts. New crises in the northern Caucasus, East Timor, Indonesia, Burundi and Kosovo over the past year all entailed massive internal displacement. Meanwhile, in Angola, Burundi, Colombia, Myanmar, the Sudan, Sierra Leone and Sri Lanka, situations of internal displacement have worsened or stagnated.

Northern Caucasus

3. The Russian offensive in Chechnya in 1999 forced over 200,000 civilians to flee their homes in order to seek safety. The majority of the displaced fled to the neighbouring Russian Federation Republic of Ingushetia and the remainder were displaced within Chechnya itself. Displaced persons suffered a myriad of abuses and problems.

4. Restrictions of freedom of movement: closure of borders. In October 1999, the Russian authorities closed the border with the Republic of Ingushetia, effectively trapping civilians inside Chechnya. Although it was subsequently reopened, there continued to be serious bureaucratic delays, extortion and abuses at the border. Freedom of movement for internally displaced persons was also severely curtailed. At the beginning of the crisis internally displaced persons were refused permission to leave either Ingushetia or Chechnya for other parts of Russia, where many of them had relatives. In early October 1999, the Government of the Russian Federation announced that it would resettle displaced persons in parts of northern Chechnya under Russian military control. Human Rights Watch protested that this would endanger the lives of displaced persons.

5. Lack of access to humanitarian assistance and physical insecurity. Those displaced inside Chechnya itself had almost no access to humanitarian assistance. Even in the Republic of Ingushetia, humanitarian assistance was minimal and many of the displaced lived in appalling conditions without adequate food, shelter, and medical care. The displaced were also the victims of physical attacks by Russian fighters.

6. Human Rights Watch makes the following recommendations:

- The Russian authorities must allow internally displaced persons to move freely within the Russian Federation. All border restrictions, extortion and abuses must immediately cease. Displaced persons must be given free and safe access to safe areas in Ingushetia and elsewhere in the Russian Federation;

- No displaced persons should be moved to parts of the conflict zone where their safety and security cannot be guaranteed and where international humanitarian agencies do not have free and safe access;
- The Government of the Russian Federation must provide adequate humanitarian assistance to internally displaced persons. Where it is unable to provide sufficient assistance, it must accept international offers of help;
- International humanitarian agencies, including the Office of the United Nations High Commissioner for Refugees (UNHCR), should be given full, free and unimpeded access to all internally displaced persons with full security guarantees;
- All attacks on internally displaced persons must cease immediately. Those fleeing Chechnya must be given safe passage through genuine safe corridors or ceasefire zones which are strictly respected. Deliberate attacks on displaced persons and humanitarian workers should be investigated and those responsible should be arrested and prosecuted according to international standards.

East Timor

6. In the weeks following the 4 September 1999 announcement of the pro-independence vote in East Timor, some 300,000 East Timorese, out of a pre-referendum population of 850,000, were internally displaced. An additional 200,000 people were pushed across the border, most of them into West Timor, or elsewhere in Indonesia.

7. Forced displacement, forced relocations, restrictions on freedom of movement, and obstacles to return. Human Rights Watch found compelling evidence that the Indonesian authorities and militia groups forcibly expelled some 200,000 people out of East Timor into West Timor, as part of an orchestrated strategy to alter the political balance in East Timor and reduce the number of independence supporters, particular in East Timor's western districts. In December 1999, although 110,000 refugees had returned from West Timor, Human Rights Watch reported that significant obstacles to the return of East Timorese refugees in West Timor and elsewhere in Indonesia remained.

8. Lack of access to humanitarian assistance. Humanitarian access to the internally displaced in East Timor was severely restricted, particularly after the closure in September of all United Nations Mission in East Timor (UNAMET) field offices and the evacuation of United Nations staff. With the arrival of the International Force, East Timor (INTERFET) in late September, access for humanitarian agencies to the displaced populations improved. In West Timor, and elsewhere in Indonesia where access is particularly restricted, UNHCR and other international humanitarian organizations had not been able, as of late December, to achieve full, free and unimpeded access to all refugees with full security guarantees.

9. Physical insecurity and attacks. There was virtually no protection for internally displaced persons in East Timor at the beginning of the crisis. Militias, at times aided by government troops, deliberately targeted and burned places of refuge, including churches, schools and other large public buildings, and attacked and killed displaced persons and those sheltering them. The

Indonesian authorities did little to control the militias. In West Timor, refugees in Government-run camps were held in hostage-like conditions and camps were infiltrated by the same militia groups responsible for terrorizing the refugees in East Timor. The militias subjected refugees to physical attacks, intimidation, killings and "disappearances" and both the militia and soldiers reportedly conducted "sweeps" of the camps to identify pro-independence supporters. Meanwhile, the Indonesian authorities did little to provide refugees with protection.

10. Human Rights Watch makes the following recommendations:

- The Government of Indonesia must take immediate steps to ensure the strictly humanitarian and civilian nature of refugee camps and settlements in West Timor and to separate militia members from civilian refugees;
- The Government must take urgent steps to prevent intimidation, harassment and attacks by militias on refugees in West Timor who wish to return to East Timor. Those responsible for such actions must be arrested and prosecuted in accordance with international standards.
- The Government should ensure that UNHCR and other humanitarian organizations have full, free and unimpeded access to all refugees in West Timor and elsewhere in Indonesia, with full security guarantees;
- The Government should take steps to counter deliberate misinformation campaigns taking place in West Timor.

Burundi

11. Forced displacement and relocations. In September 1999, following increasing rebel attacks on Bujumbura in July and August, the Government of Burundi forced 317,666 (73 per cent) of the inhabitants of the surrounding province of Bujumbura-Rural out of their homes and into "regroupment" camps. The regroupment camps were part of a counter-insurgency strategy aimed at protecting Bujumbura and ending possible local support to the rebels. In late 1996 and 1997, the Government had also forced hundreds of thousands of civilians into regroupment camps. The total number of internally displaced persons in Burundi at the end of 1999 was over 800,000.

12. Physical insecurity and lack of access to humanitarian assistance. Security and humanitarian conditions in the camps were extremely poor. Members of the Burundian military were reported to have selected men from some of the camps and caused their "disappearance", and rebels reportedly attacked some camps. Access for United Nations and international humanitarian agencies to the camps was severely limited. The operations of the few humanitarian agencies that did have access to the camps were seriously constrained, causing one of them to actually cease its operations in late 1999. The camps lacked clean water, adequate shelter, medical assistance and schooling for the children. Many of them were located far from roads, making the delivery of supplies extremely difficult. In one week alone at the end of September 1999, aid officials reported that at least 100 villagers died of disease in the camps.

13. Human Rights Watch makes the following recommendations:

- The Government of Burundi should take urgent steps to cease the forced relocation of its citizens to regroupment camps,
- The Commission on Human Rights should condemn the policy of forced regroupment, which is in violation of article 17 of Protocol II to the Geneva Conventions of 1949, to which Burundi is a party, and the Guiding Principles on Internal Displacement, both of which prohibit the forced displacement of citizens in all but strictly limited circumstances.

General recommendations

14. Human Rights Watch calls on all Governments to respect their obligations to protect and uphold the rights of displaced persons, by which they are bound through international instruments and which are reiterated in the Guiding Principles on Internal Displacement.

15. We call on Member States to make available the resources needed to provide adequate protection and assistance to internally displaced persons.

16. We urge the Commission on Human Rights to extend the mandate of the Special Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng, and to provide him with the necessary resources to carry out his tasks.

17. We call on the Commission on Human Rights to reiterate its support for the Guiding Principles on Internal Displacement.

18. We call on other regional organizations of States and international organizations to add their endorsement of and support for the Guiding Principles.



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**PROMOTION AND PROTECTION OF HUMAN RIGHTS
HUMAN RIGHTS DEFENDERS**

Written statement submitted by Human Rights Watch, a
non-governmental organization in consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 December 1999]

1. Human Rights Watch reiterates its call on the Commission on Human Rights to appoint a Special Rapporteur on human rights defenders. This is the indispensable next step after the adoption of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders) and necessary to ensure the Declaration's implementation. Events during the time since the adoption of the Declaration highlight this need in a dramatic fashion. We wish to bring to the attention of the Commission examples drawn from just two parts of the world.

2. Colombia stands out as a country where defending human rights is an extremely dangerous profession. In the first nine months of 1999, two human rights defenders were killed and dozens more were threatened. Two academics who also worked in favour of human rights were murdered. On 31 January, Julio González and Everardo de Jesús Puerta, who worked for the Committee of Solidarity with Political Prisoners, were shot and killed by presumed paramilitaries after they were forced off the public bus in which they were travelling in Antioquia. Subsequent threats forced the Committee to suspend activities for several months. Earlier in January, four employees of the Popular Training Institute were kidnapped on the orders of paramilitary leader Carlos Castaño. The four were later released unharmed, but Mr. Castaño warned that he would continue to target so-called parasubversives working in human rights organizations. A few months later, Castaño's forces kidnapped Senator Piedad Córdoba, President of the Senate Human Rights Commission. She too was released unharmed, but threats from Castaño issued after her release led her to flee the country temporarily.

3. In 1999, Colombia's Attorney-General formally charged Castaño with ordering the 1998 murder of Jesús María Valle, president of the "Héctor Abad Gómez" Human Rights Committee in Antioquia. Despite this promising initial step, no moves were taken to mount the operation necessary to arrest him. The Attorney-General's office did arrest several individuals accused of killing human rights lawyer Eduardo Umaña in his Bogotá apartment in 1998. Nevertheless, those who ordered the killing remain unidentified. Several human rights groups closed their doors because of threats, among them a group working with the families and survivors of the killings in Trujillo in the early 1990s. At least 30 other defenders were also forced to leave the country in 1998 and 1999.

4. Surveillance of some groups was open and aggressive. One group reported being filmed from the twelfth floor of a neighbouring hotel, prompting them to request bulletproof glass for their twelfth-floor windows. Telephones were tapped, and callers could hear agents eating, turning newspaper pages and listening to music. One group discovered that a false NGO set up by military intelligence monitored their activities, and fear was rife that the military and paramilitaries had placed operatives within offices to report on the movements of key leaders. The administration of President Andrés Pastrana allocated US\$ 4 million to protect human rights defenders in 1999, but monies were slow to materialize, short of what was promised, and often short-lived, including for much-needed measures like bulletproof glass, radios, taxis, and police protection at offices.

5. Human rights defenders in the Middle East and North Africa are extremely vulnerable. In five countries - Bahrain, Iraq, the Libyan Arab Jamahiriya, Saudi Arabia and

the Syrian Arab Republic - defenders are unable to form independent organizations and openly monitor human rights. Elsewhere in the region, defenders suffer imprisonment, the threat of criminal prosecution and harassment. In Egypt and the area under the rule of the Palestinian Authority, controversial new laws have raised fear among local human rights groups that authorities may move to restrict their activities and sources of funds, thus challenging their very existence as independent organizations.

6 In Syria, where independent non-governmental organizations (NGOs) do not exist, defenders have faced unfair trials and harsh punishment. Five defenders are currently serving prison terms of 8-10 years, imposed in the aftermath of a crackdown on the country's nascent human rights movement in 1991/92. Muhamed Ali Habib, Afif Munzer, Thabet Murad, Nizar Nayouf and Bassam al-Shaykh are all imprisoned solely for the peaceful exercise of freedom of association and expression, and should be immediately released.

7 The Government of Tunisia goes to extraordinary lengths to intimidate and impede the activities of any Tunisian who tries to defend or speak out on behalf of victims of human rights abuses. Plainclothes police conduct constant and highly visible surveillance of human rights activists and of the offices of organizations and human rights lawyers, to intimidate both the defenders and victims of abuse who seek remedies. Laws providing prison terms for "defamation" of public authorities and institutions and for "spreading false news" are routinely used to charge those who criticize the Government's human rights record. The Government has refused to grant legal recognition to the year-old, outspoken National Council on Liberties in Tunisia, and has detained and hauled into court two of its leading members, Moncef Marzouki and Omar Mestiri, on charges related to their "illegal" human rights activities. The cases are pending against them; their passports, along with those of numerous other human rights activists, have been confiscated. Within the last five years, two other Tunisians, Khemais Ksila and Nejib Hosni, each served two years in prison as a price for their human rights activities. Lawyer Radhia Nasraoui's office was burglarized and case files stolen in 1998, in one of many suspicious acts of theft and vandalism that have targeted human rights activists.

8 Egypt enacted a new law (Law No. 153/1999) in May 1999 that authorizes the Ministry of Social Affairs to closely monitor and regulate all Egyptian NGOs. The law has generated sustained concern among the country's large community of human rights defenders. The defenders view as uncertain the future status of their organizations if the Government chooses to use the comprehensive law to interfere with their budgets and restrict their activities. The law gives the Ministry of Social Affairs wide power to challenge virtually any aspect of NGO management and activities, including decisions made by boards of directors, receipt of funds from abroad, and affiliation with NGOs in Egypt and internationally. Violations of the law that may amount to no more than the exercise of peaceful freedom of association by human rights defenders or other activists (such as carrying out organizational activities without registration as an NGO) can bring criminal prosecution and prison sentences ranging from three months to one year. The administrative regulations for the law were not issued until December 1999, so the impact of the implementation of the law on human rights defenders in Egypt must be carefully watched and assessed throughout 2000. In addition, criminal charges dating back to December 1998 are still pending against two human rights defenders, lawyer Hafez Abu Sa'da, Secretary-General of the Egyptian Organization for Human Rights (EOHR), and lawyer Mustafa Zeidan, author of a September 1998 EOHR report that documented police abuse of

residents of a predominantly Christian village. Prosecutors accused the lawyers of disseminating false information that harmed Egypt's national interests, and Abu Sa'da was additionally accused of accepting foreign funds without government permission, with the goal of carrying out acts harmful to Egypt.

9. In the territories under the administration of the Palestinian Authority (PA), President Yasir Arafat has not signed the largely positive NGO law the Palestinian Legislative Council passed on 21 December 1998 and has repeatedly tried to force the adoption of amendments giving him, as Minister of the Interior, the power of NGO oversight. In May 1999 government officials launched a campaign of libel and intimidation against defenders, characterizing them as "traitors" and "spies" in the semi-official press. Representatives of NGOs who refused to register with the Ministry of the Interior were interrogated by police and threatened with arrest under a 1909 Ottoman-era law prohibiting unregistered associations. Police told the Director of the Gaza Mental Health Clinic, Dr. Eyad Sarraj, during his detention on 5 August 1999 that President Arafat had ordered his arrest and interrogation because of his article criticizing attacks by PA on human rights NGOs, published in a human rights magazine. In a letter of 28 August to Raji Sourani, Director of the Palestinian Centre for Human Rights, Police Chief Ghazi al-Jabali said, "words are not sufficient, especially with those who sold their consciences and their pens to the interests of those who want us to have neither a state or law"; the letter was copied to the Ministers of Justice and NGO Affairs and to all regional police chiefs and stations "to acquaint them with the position of Raji Sourani and human rights organizations". This climate of intimidation has led to physical attacks: on 11 December 1999 Hanan Elmasu, Project Coordinator of the Bir Zeit University Human Rights Action Project, was knocked unconscious after she stepped outside to see who had thrown a stone through her window. The stone had a note attached warning her to stop her work and leave the country and was wrapped in a petition Ms. Elmasu had signed that protested the arrests by PA of its critics.

10. We urge the Commission to address this urgent problem by appointing a Special Rapporteur on human rights defenders. The Special Rapporteur would examine whether national standards and practice conform to the Declaration and could intervene in cases of harassment or persecution of human rights monitors.



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EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

Written statement submitted by Human Rights Watch, a non-governmental
organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 December 1999]

Colombia

1. The field office of the United Nations High Commissioner for Human Rights in Bogotá has been an important mechanism to pressure the Government for change. Despite its strenuous efforts to assist the Government in improving Colombia's deplorable human rights situation, the office reported in 1999 that its recommendations had largely not been implemented. The Government was particularly slow to adopt key reforms aimed at breaking ties between the military and paramilitary groups. Part of the problem appeared to be that the civilian Government officials with whom the office met regularly lacked effective power to carry out the reforms. The Government did take some steps towards purging the military of suspected human rights abusers - cashiering General Rito Alejo del Río and General Fernando Millán - yet other reforms fell far short of what was necessary.
2. Budget issues apparently hampered the work of the field office, jeopardizing the financing of certain staff positions. Efforts should be made to streamline funding for the office so that staff are assured of being able to remain for sufficient time in Colombia to conduct their missions effectively. Also, in the view of Human Rights Watch, the office should allocate more staff time to field research in Colombia.
3. The Working Group on Enforced or Involuntary Disappearances continued to transmit to the Government new cases of "disappearances", most of which had been carried out by paramilitary groups. A bill that criminalized forced disappearances finally passed in November 1999, but was weakened significantly before being approved. Human Rights Watch would like the Working Group to review and analyse the law and recommend any necessary revisions. We are particularly concerned that the law may allow certain human rights violations to be excused as "service-related acts".
4. The High Commissioner for Human Rights visited Colombia in October 1998, meeting the President as well as high government ministers. Her visit was extensively covered in the Colombian press, which gave wide dissemination to her statements in support of human rights. During 1999, the High Commissioner continued to draw attention to the human rights situation in Colombia; her strong statements regarding military complicity in paramilitary abuses were useful in making these abuses known to a broad public.
5. Other high-ranking United Nations officials also paid significant attention to Colombia in 1999. Francis Deng, Representative of the Secretary-General on internally displaced persons, who had previously visited Colombia in 1994, was prompted to return in May 1999 because of the increase in forced displacement. In addition to government meetings, Mr. Deng held a workshop on the Guiding Principles on Forced Displacement, a useful means of familiarizing Colombian NGOs with these standards.
6. Also in May, Olara A. Otunnu, Special Representative of the Secretary-General for Children and Armed Conflict, toured Colombia. During his trip he met with government officials, NGO representatives and guerrilla leaders. Although Mr. Otunnu announced after his visit that the Fuerzas Armadas Revolucionarias de Colombia (FARC) had agreed to cease recruiting children under the age of 15, the group quickly disputed his claim, asserting that they would continue to "accept" children who chose to join their ranks.

7. Human Rights Watch applauds the high level of attention accorded to Colombia by United Nations human rights experts and mechanisms. Because of the severity of the country's human rights abuses, we recommend that the United Nations intensify its efforts to promote reform in Colombia. In addition to the continued efforts of the officials mentioned above, a visit to Colombia by the Special Rapporteur on extrajudicial, summary or arbitrary executions would be valuable in drawing attention to that problem.

Kosovo

8. The entry of the Kosovo Force (KFOR) into Kosovo led by the North Atlantic Treaty Organization (NATO) on 12 June 1999 signalled the end of the brutal campaign of violence by Serbian security forces against ethnic Albanian civilians in the province. The Security Council resolution that authorized KFOR's deployment also established the United Nations Interim Administration Mission in Kosovo (UNMIK) with wide-ranging responsibilities, including the establishment of a police force and judiciary, and human rights protection. Primary responsibility for human rights is shared between the United Nations Special Adviser to the head of UNMIK and the Organization for Security and Cooperation in Europe (OSCE) mission in Kosovo. The Office of the High Commissioner for Human Rights (OCHCR) is also active in the province.

9. The large number of actors in the field of human rights in Kosovo reflects a new commitment by the international community to place human rights at the centre of its peacebuilding efforts. International agencies dealing with human rights have responded by producing high-quality public reporting on human rights abuses, based on their day-to-day monitoring throughout the province, including the October report of the Special Rapporteur on the situation of human rights in the Federal Republic of Yugoslavia (Serbia and Montenegro), the Republic of Croatia and Bosnia and Herzegovina and the December report by OSCE on post-war abuses. These entities have also developed mechanisms to address specific human rights concerns: in mid-June, the office of the United Nations High Commissioner for Refugees (UNHCR) and OSCE established an Ad Hoc Task Force on Minorities, which includes representatives from UNMIK, OHCHR, KFOR and the International Police Task Force. The Task Force, which meets weekly, has produced three reports on the situation of minorities in post-war Kosovo and works to develop solutions to enhance security for at-risk populations. Emphasis is also placed on the promotion of human rights, notably through training of police officers and judges.

10. The initiatives described above symbolize the place that human rights now occupy in interventions by the international community. In particular, the willingness to report abuses publicly is a particularly positive development that has frequently been lacking from international peacebuilding efforts in the former Yugoslavia and elsewhere in the world. Greater consultation between international civilian and military agencies on human rights questions has proved fruitful. It is also important to note that the departure of Serbian military, police and paramilitaries from Kosovo brought an end to the multiple killing and mass expulsion of Kosovar Albanian civilians.

11. The replacement of Serbian security forces in Kosovo with a NATO-led multinational peacekeeping force did not end gross violations of human rights in the province, however.

Whereas Kosovar Albanians were the target of massive abuses by Serbian and Yugoslav security forces during 1998 and especially the first six months of 1999, since 12 June, Kosovo's Serb, Roma and other minority populations have borne the brunt of the violence. Almost 250,000 minorities have fled the province since June. Many of those who have remained have fled into mono-ethnic enclaves under KFOR protection. A wave of arson and looting of Serb and Roma homes followed the exit of Serbian forces from Kosovo. Beatings and detentions are commonplace. Most seriously, scores of Serbs and Roma have been abducted and murdered. Elderly persons have been particularly targeted. Investigations by Human Rights Watch and OSCE indicate the involvement of units of the now-disbanded Kosovo Liberation Army (KLA) in attacks on civilians. Nor has violence been confined to ethnic minorities - Albanians regarded as collaborators, members of opposition parties, Albanian Catholics and the elderly have also been the victims of political violence and criminal acts.

12. There is no doubt that the agencies dealing with human rights in Kosovo take very seriously the challenge posed by the post-war abuses against minorities. As noted above, the rapid establishment of the Ad Hoc Task Force on Minorities and accurate and public reporting demonstrate the willingness of civilian agencies in Kosovo to try and tackle human rights abuses, irrespective of the ethnicity or political status of the victim. Although organizations charged with human rights protection can perhaps be criticized for their reluctance to attribute blame for the violence during the crucial period of June and July, their efforts to place the protection of minorities at the centre of international peacekeeping and policing efforts in Kosovo deserve praise.

13. The response of international military and police has been less impressive. The NATO-led Kosovo Force has taken some measures to create a secure environment for minorities in Kosovo and tackle the climate of lawlessness, but lack of training in civilian policing, differing interpretation of mandates between contingents, force protection concerns and, above all, an unwillingness to confront the KLA militarily have limited its ability to create a secure environment for all citizens in Kosovo. KFOR's efforts have been hampered by the slow deployment of United Nations international civilian police and disagreements over applicable law and the re-establishment of a court system. Six months after the deployment of UNMIK, there is still no functioning judiciary to punish the crimes that are taking place on a daily basis.

14. Ultimate responsibility for the inadequate international response to the widespread human rights abuses in Kosovo since June rests with NATO and States Members of the United Nations, who appear to lack the political will to afford the same priority to ending post-war abuses that was given to ending the earlier killing and expulsion of Kosovar Albanians. Although accurate reporting and civilian coordination play a critical role, the experience of post-war Kosovo demonstrates that human rights abuses can only be checked with a concomitant commitment by, and support for peacekeepers and international civilian police to restore law and order and hold abusers accountable.



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**ADVISORY SERVICES AND TECHNICAL COOPERATION
IN THE FIELD OF HUMAN RIGHTS**

Written statement submitted by Human Rights Watch, a non-governmental
organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[10 January 2000]

Angola

1. Angola returned to all-out war in December 1998, the fourth period of open warfare in living memory. The United Nations estimates that over 2 million people have become internally displaced because of the renewed conflict, 10 per cent of Angola's population. The return to war also represented the end of the uneasy peace process that began with the Lusaka Protocol in Zambia in November 1994.

2. In 1999, both the Government and the rebels, the National Union for the Total Independence of Angola (UNITA) were responsible for appalling levels of death and destruction. Mine warfare intensified and mines were used by both sides. UNITA maintains tight control of the population through arbitrary killings, threats, forced conscription, and the demand of sexual services. The Government cracked down on UNITA supporters after the resumption of all-out war, including by attacking nascent civil society in Luanda and harassing the independent media.

3. The Lusaka peace process was overseen by two United Nations peacekeeping missions, the United Nations Verification Mission (UNAVEM) III and its successor the United Nations Observer Mission in Angola (MONUA), at a total cost to the international community of US\$ 1.5 billion. MONUA's mandate finally expired on 26 February 1999. After months of delay, the Security Council on 15 October 1999 approved the establishment of the United Nations Office in Angola (UNOA) for an initial period of six months. UNOA consists of up to 30 Professional staff, including a Human Rights Division. UNOA's mandate includes capacity-building, human rights promotion and humanitarian assistance, although it does not have an investigative component. Unfortunately, the Human Rights Division remains mostly symbolic with recruitment of new staff frozen.

4. The record of human rights monitoring and reporting of the United Nations in Angola has been poor, with the peacekeepers often turning a blind eye to reports of rights abuses. The record improved little despite the creation of a dedicated Human Rights Division with over 20 staff to monitor the abuses as part of UNAVEM III. When solid information on abuses by the Government and UNITA was available, the United Nations continued to observe passively and to suppress any public reporting of the findings. In late May 1998, with the peace process collapsing, the then Special Representative of the Secretary-General, Blondin Beye, finally approved a change of strategy by calling on the United Nations to carry out its investigations more expeditiously. When a new director arrived in early May, he began revamping the Division and some investigative work commenced. Whole new programmes of work were created and the work of the Division was redirected.

5. The deteriorating peace process in 1998 resulted in the evacuation of much of the United Nations personnel from the interior and a complete pull-back to Luanda by early 1999. The revamped Human Rights Division had only six months to show what it could achieve, and this in an increasingly difficult context. During 1999, the Human Rights Division was unable to play the role it envisaged; it could perform little serious investigative work on rights abuses and it produced no publication. In addition, the Government of Angola sought to limit the Division to institutional capacity-building, instead of documenting human rights abuses.

6. The incorporation of a Human Rights Division in the United Nations operation in Angola was a step in the right direction. Given the critical need for investigation of the numerous reports of human rights violations by both sides to the conflict, the Commission on Human Rights should take steps to ensure that the Human Rights Division is mandated to investigate and document human rights abuses by both sides and to publish the results of this work, and that the Division is provided with adequate resources and support - political, human and material - to perform that function.

Rwanda

7. Since the 1994 genocide, the United Nations has maintained a human rights presence in Rwanda, helping to deal with the complex human rights issues resulting from the catastrophic campaign to eliminate the Tutsi minority. A Special Rapporteur and the United Nations Human Rights Field Operation in Rwanda contributed to re-establishing the judicial system necessary to prosecute persons accused of genocide while also monitoring abuses by the former forces of genocide and by the current Government. Monitors of the Field Operation provided an important service in documenting attacks on civilians by both insurgents and Rwandan Government forces in north-western Rwanda in 1996, 1997 and 1998, before this work was halted at the insistence of the Government.

8. The Special Representative who succeeded the Special Rapporteur has supplied important assistance to the National Human Rights Commission of Rwanda, which began operation in 1999. Although his role is focused on technical support, he has also provided important assessments of the current human rights situation to the General Assembly.

9. During the next year, the Government of Rwanda plans to initiate a form of popular justice, referred to as *gacaca*, for more than 100,000 persons accused of genocide and detained in prisons and communal lock-ups. As proposed, this system does not guarantee the right to legal counsel for the accused and does not guarantee that petitioners will be heard by a panel of judges. Given that thousands of courts will be established and that the power to judge extremely serious charges (with penalties of up to life in prison) will be placed in the hands of persons with minimal training, it is probable that grave violations of the rights of the victims or the accused will occur. The Commission should therefore establish a system for monitoring these trials.

10. In the second half of 1999, the Government of Rwanda appeared to have put down the insurgency in the north-west, but the presence of rebels was reported once again at the end of the year. A rebel group attacked a displaced persons camp on 24 December, killing 29 persons and wounding some 40 others. Should military activity resume in the north-west, monitoring by a representative of the Commission would be helpful in deterring abuses and ensuring that any person guilty of abuses will be brought to justice.

11. The Government has also declared that all citizens must henceforth live in villages. Many have been ordered to destroy their homes and move to Government-designated sites where there are no houses or other services, many have been forced to cede part of their landholdings to others. Given that the Government has announced its intention to move ahead rapidly in enforcing this "villagization" programme, there is a serious risk that the rights of ordinary citizens may be violated.

12. The recently established National Human Rights Commission has already registered a large number of cases to investigate. The commissioners, who received their first formal training in human rights in 1999, are only beginning to organize their staff. It will not be possible for the National Commission to deal with the cases already submitted and at the same time follow the *gacaca* trials, the process of villagization, and possible abuses in the north-west. In this early phase of work by the National Commission the Commission on Human Rights should provide assistance by broadening the responsibilities of the Special Representative to include monitoring the current human rights situation in Rwanda. It should provide adequate resources for the Special Representative to carry out this added charge in a responsible manner.

Burundi

13. In the second half of 1999, the civil war in Burundi entered a more critical phase. Although negotiations continue for ending the conflict, insurgents launched a series of attacks on the capital. National authorities responded by forcing more than 300,000 persons to leave their homes for regroupment camps, where difficulties in obtaining food, clean water and medical aid put a considerable number of camp residents at risk of disease and death.

14. The Government also adopted an important reform of judicial procedures intended to limit arbitrary and illegal detentions and to end the practice of torture. Implementing this reform poses an enormous challenge to the judicial system, which needs as much international support as possible.

15. Just as the needs for human rights assistance in monitoring the camps and in assisting the judicial system grew, the staff of the office of the High Commissioner for Human Rights was cut. The number of human rights monitors was reduced from 11 to 3. The budget projected for the coming year is about half of what was provided for the last year. The budget for full activity should be restored and a highly competent professional staff should be recruited immediately to expand and intensify the monitoring and judicial assistance activities of the Burundi office.

16. In the past, the office produced reports which were submitted for discussion to a liaison committee that included government officials. The agreed-upon version of the reports, which are supposedly public documents, have limited circulation, both in Burundi and outside. With an expanded staff, the office should undertake to publish reports more regularly and to ensure their wide distribution within Burundi, where they can both influence government policy and encourage local defenders of human rights.



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ORGANIZATION OF THE WORK OF THE SESSION

Written statement* submitted by the Colombian Commission of Jurists (CCJ),
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated
in accordance with Economic and Social Council resolution 1996/31.

[3 January 2000]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

The Chairperson of the Commission on Human Rights ("the Commission"), in a 1999 statement on Colombia, said that the Commission "deplores the fact that its recommendations as well as those made by thematic mechanisms and other United Nations bodies, have not been fully implemented".

Notwithstanding, the Government of Colombia persists in its failure to implement international recommendations, as shown in the annex to this statement (available from the signatory organizations), which contains a comparative analysis of the recommendations and the degree to which they have been fulfilled.

The United Nations has repeatedly requested that the Government carry out a reform of the Military Penal Code. In 1999 a law adopting a new code was enacted. The reform, however, far from abiding by international recommendations and the case law of the Colombian Constitutional Court (Judgement C-358 of 1997), permits the military system of justice to continue investigating and trying cases of human rights violations other than genocide, torture and enforced disappearance. Furthermore, the new code is not yet in force, as its entry into force was linked to the enactment of a new law relating to the administrative organization of the military system of justice. As of late 1999, a draft of the proposed new law had not yet been prepared.

After 11 years and five unsuccessful drafts, a law criminalizing the enforced disappearance of persons was adopted by Congress. Incomprehensibly, however, the President challenged the law and refused to approve it. With this presidential decision, Colombia again fails to abide by international standards and recommendations.

There is nearly 100 per cent impunity for human rights violations. In contempt of the Constitutional Court judgement, serious cases of human rights violations are still being tried by the military courts. In addition, most of the cases tried internationally, which have resulted in condemnations of the Colombian State and recommendations that those responsible should be tried, have resulted in impunity.

The human rights and humanitarian law situation continued to deteriorate during 1999. In 1998 an average of nine persons per day were victims of sociopolitical violence. The number increased to 12 in 1999: 6 died from extrajudicial executions, 1 disappeared, 4 died in armed conflicts and 1 more died each day for belonging to social sectors considered to be marginal. Of those figures, not counting those who died in armed conflict, one woman every 2 days and one child every 10 days die because of sociopolitical violence.¹

The paramilitary groups (which, as has repeatedly been shown, act in conjunction or with the complicity of Government forces), are responsible for 73 per cent of these violations and the police and armed forces account for 5 per cent, for a total of 78 per cent. The guerrilla forces account for the remaining 22 per cent.

The police and armed forces are definitely not confronting these groups. In August the Government announced a "national human rights policy" (four months after the Commission had commended it for its supposed adoption of such a policy the year before). Its stated

intention of dismissing from service and trying the officials implicated in serious violations has yet to be fulfilled. The Government must comply with the repeated recommendation that it should dismantle the paramilitary groups.

Attacks against human rights defenders, journalists and trade-union and social leaders continue. Since mid-1996, 36 human rights defenders have been murdered, approximately 100 have been threatened and at least 30 have been forced to leave the country due to threats.

Statements by senior military leaders, such as the Deputy Commander-in-Chief of the Army, who in December publicly qualified the army's opponents as "insurgents who have presumably infiltrated the Offices of the Attorney-General, Procurator-General and human rights associations in Colombia", are disturbing. The fact that the President of the Republic failed to rectify those statements, despite explicit requests from the Procurator-General and Attorney-General, increases the risk to human rights defenders.

Forced displacements continue to increase. Between January and September 225,000 persons were displaced.² Accordingly, more than 1.7 million persons were displaced between 1985 and 1999. The main cause of displacement is armed conflict, compounded by economic macroprojects.

Government policy for the prevention of displacement is ineffective, as it has not worked for previously reported displacements. Victims are not attended to during the displacement and concrete and safe measures are not taken to guarantee their protection.

The parties in conflict are committing serious violations of humanitarian law. The Revolutionary Armed Forces of Colombia have abducted and murdered civilians, including three well-known indigenous activists. Serious violations are also being committed by the National Liberation Army, which introduced a new practice of collective abductions: 42 passengers in an aeroplane, 59 persons attending church and 14 persons who happened to be fishing.

One example of a violation of humanitarian law was a car-bomb attack carried out in July by the Revolutionary Armed Forces of Colombia against the municipality of Nariño (Antioquia), which caused the deaths of four civilians, two of them children. An armed forces aeroplane and helicopters came to the aid of the police, shooting indiscriminately. A young girl asleep in her house 2 km away was killed by a shot from one of the helicopters.

In addition to the above-mentioned violations, indiscriminate use is made of methods of warfare, executions are conducted in non-combat situations and military facilities are located in the midst of civilian areas.

Colombia is currently undergoing its worst economic crisis for the last 70 years, which has heavily affected the poorest sectors, due to a high level of concentration of income and property. Sixty per cent of the population is living in a situation of poverty. The unemployment rate is over 20 per cent, with even more dramatic regional data, as in the city of Buenaventura where it is over 60 per cent.

This grave situation has resulted in social movements which have been disregarded by the Government as being tools of the guerrillas. Furthermore, the policies included in the Development Plan are not aimed at resolving the main problems encountered in the enjoyment of economic and social rights. On the contrary, the plan increases the military budget, to the detriment of social spending.

We, the signatory organizations, support the steps being taken to achieve a negotiated political solution to the armed conflict. In the words of the High Commissioner, peace must be "founded on respect for human rights". Unfortunately, efforts to achieve peace in Colombia are not being accompanied by a serious human rights policy; it is assumed that human rights will automatically be respected when the peace is signed. The Government appears to believe that a human rights commitment would be counterproductive to peace efforts. This endangers the viability of any peace agreement achieved. The peace negotiations should guarantee the victims' rights to justice, truth and compensation. A peace based on impunity would be a frail peace indeed.

We urge the guerrillas and the Government to respect the rights of non-combatants and to sign a humanitarian agreement.

For the foregoing reasons, we request that the Commission

On the basis of the analytical report submitted to it by the High Commissioner, again express its deep concern at the human rights crisis in Colombia and the repeated failure to comply with the recommendations made, and not recognize spurious achievements, as has unfortunately occurred in the past.

Renew and strengthen the mandate of the Office of the High Commissioner in Colombia by providing it with adequate financing, inviting the member countries of the Commission actively to back its work and urging the Colombian Government to fulfil the Office's recommendations.

Formally establish a special item on its agenda on follow-up of compliance with United Nations recommendations to the Government of Colombia (due to its repeated failure to implement them).

Request that the High Commissioner should also submit her report on Colombia to the United Nations General Assembly.

Urge the thematic mechanisms of the Commission to devote increased attention to the human rights crisis in Colombia and request that they visit the country again.

Appoint a Special Rapporteur for Colombia, as a mechanism supplementing the work of the Office of the High Commissioner, to support the Office in providing follow-up to the recommendations made to the Government of Colombia.

Call especially on the States providing the Colombian Government with military aid to ensure that the aid is not used to violate human rights and is posited on the fulfilment of the recommendations repeatedly made by the United Nations.

Decide the foregoing by means of a resolution, given the lack of cooperation of the Colombian Government, which apparently commits itself to the statements of the Chairperson of the Commission but does not implement her recommendations.

Notes

¹ Data supplied by the Centre for Research and Popular Education (CINEP) of the Colombian Commission of Jurists, Standing Committee for the Protection of Human Rights and Interdenominational Committee for Justice and Peace.

² Figures supplied by Codhes (Consultoria para los Derechos Humanos y el Desplazamiento (Advisory Office for Human Rights and displacement).



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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:
RELIGIOUS INTOLERANCE**

Written statement submitted by the International Humanist and Ethical Union,
a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 December 1999]

1. The Commission on Human Rights, in its resolution 1999/39 adopted at the fifty-fifth session, noted "the request of the Special Rapporteur [on religious intolerance] to change his title to Special Rapporteur on freedom of religion or belief, and decide[d] to consider, at its fifty-sixth session, changing the title". This request was made by the Special Rapporteur in his last report (E/CN.4/1999/58, para. 122). He recommended "that a more neutral and encouraging title, such as 'Special Rapporteur on freedom of religion or belief,' should be used. The present one, with its reference to religious intolerance, antagonizes certain interlocutors and sometimes makes dialogue difficult. A different title could embrace all aspects of freedom of religion or belief. It must also be consistent with the mandate, covering not only religion but also belief and intolerance, as well as discrimination, and reflect the balanced dialogue-oriented approach followed by the Special Rapporteur in his work, in accordance with the resolutions governing his mandate".

2. This request is consistent with article 18 of the International Covenant on Civil and Political Rights. General comment No. 22 on article 18 adopted by the United Nations Human Rights Committee in 1993 reads: "Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reasons, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community" (A/48/40, vol. I, annex VI, para. 2).

3. The Oslo Conference on Freedom of Religion or Belief was held from 12 to 15 August 1998 in the context of the fiftieth anniversary of the Universal Declaration of Human Rights. The goal of the Conference was to build an international coalition and to develop a plan of action to strengthen the mandate of the Special Rapporteur on religious intolerance and, therefore, the implementation of article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

4. The Oslo Conference was attended by representatives of Governments, religious communities (Buddhist, Christian, Jewish, Muslim, etc.) humanist beliefs, academic institutions and NGOs. The Conference adopted the Oslo Declaration on Freedom of Religion or Belief, in which it recommended that "Commission on Human Rights change the title of the Rapporteur to Special Rapporteur on Freedom of Religion or Belief".

5. The participants urged the organizers and sponsors of the Oslo Conference "to review the discussions and recommendations of the Conference, with the purpose of creating an 'Oslo Coalition on Freedom of Religion or Belief', inviting support and participation by governments,

religious or belief communities, academic institutions and non-governmental organizations". In August 1999, The Oslo Coalition opened an office and appointed an International Advisory Council to carry out the 10 substantive provisions of the Oslo Declaration, including the title change for the Special Rapporteur.

6. As the worldwide umbrella organization of nearly 100 humanist rationalist and secularist organizations from 34 countries, the International Humanist and Ethical Union, in consultative status with the Economic and Social Council and member of The Oslo Coalition, urges the Commission on Human Rights at its fifty-sixth session to grant the request of the Special Rapporteur to change his title to 'Special Rapporteur on freedom of religion or belief' (or 'Special Rapporteur on religion or belief'), in order to be consistent with his mandate.



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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL
FORMS OF DISCRIMINATION**

Written statement submitted by the Friends World Committee for Consultation (Quakers),
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31

[31 December 1999]

1 "Through the years Friends (Quakers) have been known for their efforts to translate their religious beliefs into everyday life, for their emphasis on simplicity, and for their belief in silent meditation as a form of corporate worship. Since their earliest days Friends have been opposed to war and to slavery. They have a history of dissent from prevailing practices that deny the equality and the value of each person. In the United States they have long been concerned with improving the conditions in mental hospitals and prisons, alleviating the suffering of the unemployed, and the dispossessed, and working for racial equality. They seek to lessen international tensions by non-violent methods."¹

2 Since 1917, the American Friends Service Committee (AFSC) has worked for non-violent resolution to conflict, economic and social justice, and has provided humanitarian aid to those in situations of war or natural disaster. This work is based directly on the tenets of Quakerism (begun in 1652), the belief of "God in every person".

3 Quakers were among the first in the United States to call for the abolition of slavery, working with the Underground Railroad, and were extremely active in the civil rights movement in the United States and the abolition of apartheid in South Africa. As the American service organization of Quakers, AFSC works within the United States, but also works around the globe. That work includes a number of AFSC-local partnerships focused on lessening racism and ethnic violence.

4 In the Andean region, AFSC has formed partnerships with indigenous and Black groups, supporting their demands for economic, social and cultural as well as political rights. With both groups, AFSC has supported struggles for land rights, ethnic education and public recognition of their contributions in the histories of their respective countries. In Ecuador, Black organizations have developed legislative proposals with the support of Colombian Black lawyers and organizations. A recent binational meeting (Colombia and Ecuador) in Chota, Ecuador, included Black leaders from Uruguay, Venezuela and Peru. A major theme was preparation for and contributions to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In Peru, AFSC has partnered with the Peruvian Black Movement, a non-governmental organization working on ethnic education and interracial tolerance between Ecuador and Chile. An AFSC programme that began in Hungary has assisted Roma youth in their plan to develop educational tolerance curricula for Hungarian schools. In October 1999, AFSC staff organized a youth conference around issues of racism and tolerance in South-East Asia. A long-running programme has followed issues of contemporary slavery, particularly in areas of North Africa. In the United States, Latin American youth from the Asian-Pacific region met in Portland, Oregon, to share cultural experiences and issues faced by youth of colour; in Chicago, the African-American Youth Empowerment Program has developed an extensive network of mentors for a large group of urban young people and has made a commitment to an international perspective in their work.

5 AFSC has from its inception been involved in work on the peaceful resolution of racial, ethnic and religious conflict. Programmes have brought together people from Sri Lanka, the former Yugoslavia and Haiti to engage in constructive problem-solving dialogues on the conflicts in their countries.

6. Given the history and current work of the organization, AFSC is in a unique position to contribute to the preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001.

7. The United Nations has been a leader in the international work of eliminating racism, racial discrimination, xenophobia and other forms of intolerance. Beginning with the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Declaration and International Convention on the Elimination of All Forms of Racial Discrimination, and the three Decades to Combat Racial Discrimination, the United Nations has, as a body, worked diligently and consistently to assist nations to end the scourge of racism.

8. During its fifty-fifth session in August 1999, the United Nations Committee on the Elimination of Racial Discrimination (CERD) adopted decision 5 including a programme of work for the World Conference as well as specific suggestions for its agenda (see A/54/18, para. 574). The American Friends Service Committee, in consideration of its long history of work against racism and its current programmes, respectfully submits the following suggestions for specific agenda items which lie within the scope of the suggestions put forth by CERD in paragraph 6 of its decision:

- (a) Processes of racial reconciliation,
- (b) Racial discrimination against indigenous populations:
 - (i) Loss of culture, land, traditional forms of governance and economic globalization have contributed to the marginalization of indigenous peoples around the world. The American Friends Service Committee, long committed to partnership with and the rights of indigenous peoples, suggests that this item, developed by the Committee on the Elimination of Racial Discrimination, be broadened to include debate on preservation of traditional culture, restoration of land rights, consideration of traditional forms of governance, and the effects of economic globalization on indigenous communities,
 - (ii) The American Friends Service Committee respectfully requests the inclusion of Africans in all of the Americas as an element for the agenda of the Conference. Although Africans are not indigenous to the Americas, they face many of the same problems as indigenous groups (land rights issues, environmental degradation, discrimination, etc.) without the foundation of declarations such as International Labour Organization on Indigenous and Tribal Peoples (Convention No. 169) and the draft United Nations declaration on the rights of indigenous peoples,

(c) All human beings are born free and equal in dignity and rights:

- (i) Slavery, both historic and contemporary, has had deleterious effects on people, communities, cultures and nations. The American Friends Service Committee encourages the Commission on Human Rights to include a specific agenda item on both contemporary and historical slavery;
- (ii) United Nations Secretary-General Kofi Annan has stated that "human rights are foreign to no culture and native to all nations; they are universal".² In the spirit of this statement, the American Friends Service Committee suggests that the Commission on Human Rights include agenda items on migration and immigration, acknowledging that migrants and immigrants are covered under the Universal Declaration of Human Rights no matter what border they crossed.

(d) Racism, racial discrimination, xenophobia and related intolerance, challenge to peace, human rights, including the right to life, human dignity, stability and the rule of law:

- (i) Racism, whether covert or blatant, is a form of violence. The American Friends Service Committee, in its commitment to non-violence and demilitarization, suggests that economic and political stability cannot coexist with covert or blatant racism. The American Friends Service Committee commends CERD for its inclusion of item (d) on the agenda for the World Conference;
- (ii) The American Friends Service Committee affirms the goal of CERD to include stability and the rule of law on the agenda of the World Conference. In many countries, racial and ethnic minorities comprise the bulk of the people in prisons; this condition stems from many sources. During and after situations of racial or ethnic conflict, significant numbers of the "losing side" may be sent to languish in prisons. Discrimination leading to poverty and need affect racial and ethnic minorities, moving people to meet those needs in many ways, some of which are considered criminal by national legal systems. The death penalty, still an option in a handful of countries, remains a significant cause for concern. Inclusion and discussion of these issues is critical for the development and maintenance of stable local, national and international governmental and non-governmental institutions;

(e) Incitement to racial hatred as a punishable offence:

Our vision as Quakers does not minimize for one instant the devastating consequences of hate crimes on those who are victims of such violence. In fact, we put those consequences at the heart of our vision and then explore the human possibilities for not only addressing past wrongs and harms, but also for identifying what can be done to establish new and right relationships in the future. For us, a spiritual understanding of justice involves not only accountability and

judgement, but responsibility for taking the more difficult and more hopeful path towards creating an ever-widening circle of right, respectful relationships between individuals and among peoples and communities. While we do not support increased criminal penalties for hate-crimes, we challenge ourselves and others, including those who support and those who oppose strong, inclusive hate-crimes legislation, to imagine what restorative justice might look like for both the victims and perpetrators of hate crimes;

(f) Effective measures for all segments of the population in the spirit of elimination of all forms of racial discrimination and intolerance:

The American Friends Service Committee encourages the Commission on Human Rights to remember and include women and youth within all of its deliberations and resolutions;

(g) Educational measures for all segments of the population in the spirit of the elimination of all forms of racial discrimination and intolerance:

The American Friends Service Committee commends CERD for its inclusion of educational measures in the scope of the Conference. Given the American Friends Service Committee's work with partners on the development of racial tolerance educational curricula in Hungary, Peru, Ecuador, the United States and, recently, in South-East Asia, we have seen the results of and ongoing need for this work;

(h) National commissions of human rights in the light of the Committee's General Recommendation XVII.

9. The American Friends Service Committee again commends the United Nations, the High Commission for Human Rights and the Committee to End Racial Discrimination in their efforts, and looks forward to the 2001 Conference.

Notes

¹ Beliefs and practices of the American Friends Service Committee, 1990.

² Human Rights Today: A United Nations Priority. United Nations Briefing Papers, Department of Public Information (United Nations publication, Sales No. E 98.I 22), preface.



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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:
CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement submitted by the Friends World Committee
for Consultation (Quakers), a non-governmental organization
in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[1 January 2000]

1. As war continues to be waged in Africa, Asia, Latin America and Europe, it is important to recall that the principled stand of those who, as a matter of conscience, refuse to take up arms to kill their fellow human beings has been recognised by the United Nations as a legitimate exercise of the right to freedom of thought, conscience and religion. This is so even in the case of those who reach this position of conscience after becoming part of the armed forces.
2. For more than 300 years, Quakers have refused to participate in war, believing it is wrong to kill or to train people to kill. This is a conviction held by many people of different religious faiths and beliefs. It is on these grounds that Quakers claim the right to conscientious objection to military service, not only for themselves but for all who share their pacifist beliefs.
3. Two years ago, the Commission on Human Rights adopted, without a vote, resolution 1998/77 which set out clear, workable standards concerning the recognition of the right to conscientious objection to military service, the provision of alternative forms of service, the prohibitions on discrimination and repeated punishment, and the need for asylum where there is no or no adequate provision for conscientious objection.
4. Friends World Committee for Consultation (Quakers) warmly welcomes the adoption of this resolution and the standards contained in it. We also welcome the fact that this issue is taken up by some of the mechanisms of the Commission and by the Human Rights Committee. Together with War Resisters' International, FWCC is producing a Handbook for Conscientious Objectors explaining the United Nations standards and how to use the United Nations human rights procedures.
5. However, many conscientious objectors are still not recognized as such, continue to be imprisoned, are subjected to repeated call-ups and imprisonment. Others are harassed, ill-treated and discriminated against. FWCC is therefore calling on the Commission on Human Rights to urge all States to take early action to review their laws and practices in the light of resolution 1998/77. In particular, it should call on all States to:
 - (a) Immediately recognize the right of conscientious objection to military service as a legitimate expression of the freedom of thought, conscience and religion, if they have not yet done so;
 - (b) Release all conscientious objectors from imprisonment and, in particular, refrain from calling up for military service those who have already served prison terms for their refusal to perform such service on grounds of conscience;
 - (c) Set a timetable for the review of their laws and practices on conscientious objection to military service and the provision of alternative service;
 - (d) Pending the completion of such a review, to declare an immediate moratorium on actions against those claiming the right of conscientious objection to military service; and

(e) Provide asylum (with the assistance of the Office of the United Nations High Commissioner for Refugees) to conscientious objectors compelled to leave their country of origin because they fear persecution owing to their refusal to perform military service.

6. In order to provide practical assistance to States in undertaking these actions, FWCC urges the Commission to call for a compilation and analysis of best practices in relation to recognition of the right of conscientious objection to military service and the provision of alternative forms of service.



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COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA
AND ALL FORMS OF DISCRIMINATION**

Written statement submitted by the Aboriginal and Torres Strait Islander Commission,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[23 December 1999]

1. Racial discrimination continues to have a profound impact on the lives of indigenous peoples all over the world. Not only are there lasting effects of historical racism arising from colonization, but racial discrimination against indigenous peoples continues as a powerful force in contemporary societies.
2. The recognition of the distinct rights of indigenous peoples is essential to the eradication of racism and the full and equal enjoyment of our human rights.
3. The full enjoyment of human rights, however, requires commitment and effort on the part of all Governments. Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination is very clear on the obligations of States: "States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms" However, the existence of obligations, legislative measures and diplomatic assurances alone does not ensure the enjoyment of rights in practice. The reality is that indigenous peoples in all parts of the world, both in the North and the South, continue to suffer gross and systematic violations of their human rights. The situation for indigenous peoples in Australia is no different from that of our brothers and sisters around the world.
4. Racism continues as a powerful force in the Australian community. Racism in Australia is not merely confined to acts of isolated vilification but pervades our political and legal institutions. Not only do Aboriginal and Torres Strait Islander peoples face disadvantage in relation to the provision of basic services, but we also face serious impediments to the full enjoyment of our social and cultural rights. This experience of racism is the product of a history of colonization which removed people from their land and sought to destroy Aboriginal and Torres Strait cultures and communities. In addition to this legacy, there is a continuing refusal to recognize indigenous peoples as distinct "peoples" and the original owners of their lands and resources.
5. This history and perpetuation of racism in Australia has a significant impact on the daily lives of Aboriginal and Torres Strait Islander peoples. The life expectancy of indigenous peoples in Australia is almost 20 years less than that of non-indigenous Australians. Indigenous people account for 31 per cent of all Australians who live in "improvised dwellings", a category largely equivalent to homelessness. We are less likely to be in full-time education than non-indigenous Australians. In 1996, the indigenous unemployment rate in Australia was more than double that of the non-indigenous population. It is not surprising, given poor health and educational outcomes and thus poor employment outcomes for indigenous Australians, that personal income levels are also far below those recorded for non-indigenous Australians.¹
6. In the past decade a number of national investigations and reports have clearly identified the impediments faced by indigenous peoples. Whilst these have revealed situations of profound discrimination and suffering they have also presented significant opportunities for the Government and the broader community to redress past injustices and to take positive measures to recognize the distinct rights of indigenous peoples in Australia. Whilst some members of the Australian community have taken up this challenge, it is to Australia's shame that Australian governments continue to fail to adopt appropriate special measures to address systematic discrimination against the indigenous population.

Royal Commission

7. The Royal Commission into Aboriginal Deaths in Custody was established in 1987 to inquire into the high level of Aboriginal deaths in police custody in the 1980s. The Royal Commission published a report² in 1991 containing 339 recommendations. These recommendations were aimed at addressing the underlying causes of indigenous disadvantage and at ending discrimination in the justice system. They also recognized the critical role of indigenous self-determination in effecting these changes.
8. The Federal Government and all states and territories expressed support for the recommendations. However, the recommendations have not been successfully implemented, and in fact levels of indigenous imprisonment have increased.
9. Of particular concern is the increasingly high levels of indigenous over-representation in juvenile detention. This was noted in Australia's first report under article 44 (1) of the Convention on the Rights of the Child. In its concluding observations (CRC/C/15/Add.79), the Committee on the Rights of the Child expressed concern about the unjustified, disproportionately high percentage of Aboriginal children in the juvenile justice system. The Committee was particularly concerned about legislation which provides for mandatory detention and punitive measures, resulting in a high percentage of Aboriginal juveniles in detention.
10. Racial discrimination plays a clear role here. The regional variations show how rates of indigenous arrest and detention are reflective of and responsive to the laws and practices applied by the criminal justice system. In Western Australia where indigenous juvenile over-representation is highest, the non-indigenous juvenile incarceration rate is normal and roughly equivalent to the national average.

Stolen generations

11. A survey of indigenous Australians in 1994³ found that 10 per cent of Aboriginal and Torres Strait Islander people over the age of 25 reported being separated and raised in isolation from their families. In response, the national human rights institution, the Human Rights and Equal Opportunity Commission, conducted its "Stolen Generations Inquiry". The Inquiry found⁴ that from about 1946, laws and practices which, for the purpose of eliminating indigenous cultures, promoted the removal of indigenous children for rearing in non-indigenous institutions and households were in breach of the international prohibition of genocide. The inquiry recommended formal recognition and apology, as well as reparation to people removed as children, their families and communities.
12. The Federal Government's response to the report has been a major disappointment to indigenous peoples. Whilst the Prime Minister has expressed deep personal sorrow and has initiated a parliamentary motion expressing regret on behalf of Australians, he and the Government have refused to formally apologize and ruled out the payment of compensation to victims.

Native title

13. In 1993 legislation was enacted in Australia that recognized pre-existing indigenous rights to land (The Native Title Act 1993). Following a further decision of the Australian High Court⁵ which found that the rights of native title-holders and pastoral leaseholders could coexist, the Australian Government responded by enacting the Native Title Amendment Act 1998. This Act substantially alters the original provisions of the 1993 Native Title Act, repudiates the accord reached with indigenous representatives prior to the enactment of the NTA and effects a serious diminution of native title rights.

14. The Committee on the Elimination of Racial Discrimination (CERD) has considered the Native Title Amendment Act 1998 and subsequently adopted a decision at its fifty-fourth session under its early warning procedure which found that "within the broad range of discriminatory practices that have long been directed against Australia's Aboriginal and Torres Strait Islander peoples, the effects of Australia's racially discriminatory land practices have endured as an acute impairment of the rights of Australia's Indigenous communities".⁶ The Committee urged Australia to suspend implementation of the 1998 amendments and to reopen discussions with the representatives of the Aboriginal and Torres Strait Islander peoples with a view to finding solutions acceptable to indigenous peoples and which would comply with Australia's obligations under the Convention. At its fifty-fifth session it adopted a second decision reaffirming the earlier one.⁷

15. The Australian Government has chosen to publicly dismiss the findings of the Committee and to question the Committee's standing and competence. The Prime Minister has categorically stated that the Government has no intention of reopening the debate on Native Title or amending the Native Title Act.

Conclusion

16. There is rhetoric in Australia of commitment to equality for indigenous and non-indigenous Australians. However, the meaning of equality is undermined by a failure to recognize the distinct rights of indigenous peoples and make a concerted effort to redress profound economic and social disadvantage in indigenous communities. The existence of a notion of superficial equality combined with underlying racism has been highlighted by the former Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr. Mick Dodson:

"In my view there has been an insidious, sometimes even unconscious, process of appeal to a notion of equality which denies any rights which attach to cultural differences and, particularly, the identity of Aboriginal and Torres Strait Islander peoples as the Indigenous peoples of this country. The claim to human rights which attach to such identity are regarded, ironically, as racist and discriminatory. Hence we arrive at a situation where 'equality' and 'non-discrimination' are converted into instruments to strip Aboriginal and Torres Strait Islander peoples of appropriate recognition and protection of our rights. In the process grossly racist attitudes find apparent shelter."⁸

17. It is on this basis that the Aboriginal and Torres Strait Islander Commission strongly supports the inclusion of the "Elimination of racial discrimination against indigenous peoples" as

a major focus of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The World Conference is an important platform to address racism against indigenous peoples around the world. It should look for specific programmes of action, practical ideas and resource-backed solutions, which all States should consider in order to restore the rights of indigenous peoples and eliminate racism.

Notes

¹ *Aboriginal and Torres Strait Islander Commission, 1998-99 Annual Report*, Commonwealth of Australia, 1999, pp. 23-27.

² *Royal Commission into Aboriginal Deaths in Custody, National Report*, Volumes 1-5, Canberra, Australian Government Publishing Service, 1991.

³ Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Survey: Detailed Findings*, ABS Catalogue Number 4190.0, ABS, Canberra, 1995.

⁴ Human Rights and Equal Opportunity Commission, *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families*, Commonwealth of Australia, 1997, p. 275.

⁵ *Wik Peoples v. The State of Queensland* (1996)

⁶ Decision 2 (54) on Australia. See *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 18 (A/54/18)*, chap. II, sect. A.

⁷ Decision 2 (55) on Australia. *Ibid.*, sect. C.

⁸ Human Rights and Equal Opportunity Commission, *Aboriginal and Torres Strait Islander Social Justice Commissioner, Fourth Report 1996*, Commonwealth of Australia, 1996, pp. 6-7.



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**SPECIFIC GROUPS AND INDIVIDUALS:
MINORITIES**

Written statement submitted by the Caucasians United for Reparations
and Emancipation (CURE/AFRE), a non-governmental organization
on the Roster

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[23 December 1999]

1. Silis Muhammad is the spiritual son of the Honourable Elijah Muhammad. He sojourns amid 40 million Black men and women in the United States of America whose foreparents were brought to the United States aboard slaveships. They were brought to America over 400 years ago. During the period of plantation slavery, they were forcibly denied the right to speak their "mother tongue".

2. Today, the lingering effects of plantation slavery deny us, the so-called African-Americans, the enjoyment of speaking our "mother tongue" in community with other members of our group. This inherent human right is set forth in article 27 of the International Covenant on Civil and Political Rights. We, the so-called African-Americans, are charging the United States of America with the "denial" of the use of our "mother tongue".

3. Article 27 of the International Covenant on Civil and Political Rights states, "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language".

4. We are human beings, but to this date and time we are denied the human right of speaking our "mother tongue": it was taken during slavery. The United States grants the right today for us to speak it. Then speak it, one might say. How can we speak what the United States has denied us the use of? If our "mother tongue" is taken away, aren't we denied the use of it? No! One may say, you are deprived the use of it, there is a difference. Is not to be deprived of the use of our "mother tongue" the same as being denied the use of it? No! Says the State, to be denied the use of it presupposes it is in your possession, while being deprived of its use presupposes it has been taken away. Well, since it has been taken away, we are both deprived and denied the use of it. The very act of taking our "mother tongue" away was for the express purpose of denying us the use of it. In fact, the act is tantamount to a gross and excessive permanent denial. The United States craved the denial of our use of it so strongly that it deprived us of the very instrument.

5. Thus, this will be viewed as a gross and an excessive act of denial of the United States to permit the so-called African-Americans to speak their "mother tongue" in community with other members of their group. While the act of the United States may be viewed as an act against humanity, equally so has the United States made itself responsible for the rights of minorities, within its jurisdiction, to not be denied the use of their own language, in community with other members of their group. We, the so-called African-American, cannot speak ours. The United States grossly denies us the right, having deprived us, continually, of the very instrument. And in its place, the United States continually has forced its Anglo-Saxon "mother tongue" upon us for the past 400 years. Absent our "mother tongue", we are a non-people: living in a state of civil death.

6. In addition, we are denied a permanent identity. Rent from our land in Africa, our roots, sold and forced into slavery: we have been recognized as slaves, Niggers, Negroes, Coloureds, Black Americans, and today we are the so-called African-Americans. While holding us in this ever-revolving state, the United States holds itself out as being in full compliance with article 27 of the International Covenant on Civil and Political Rights. Yet the United States

causes us to remain trapped within the Anglo-American culture regenerating its "mother tongue", in reality, its identity. One's "mother tongue" is the essential route to one's identity. It is the manner in which one's identity is passed from generation to generation and through which one's culture and religion flow.

7. Professor Guillaume Siemienski's working paper on "Education rights of minorities: Hague recommendations", states that language, but not just any language, one's "mother tongue", is intimately bound with identity. Absent exposure to our original tongue at the earliest possible stages in life and in primary and secondary levels of schooling, how could and can we speak it with other members of our community and preserve our individual identity? By forcibly stripping us of the use of our language and of the right to be educated in the same, the Government of the United States deracinated our collective identity, making our condition irreversible. We need special assistance.

8. While we are a People, and not a minority, in the United States we are placed within a minority status. Hence we call upon the United Nations to come to our succour under article 27 of the International Covenant on Civil and Political Rights, as the lingering annihilation of our "mother tongue" and the continual force, by the United States, imposed upon us to speak its Anglo-Saxon "mother tongue" at the earliest possible stages in our lives, is the continual extermination of both our individual and collective identity. Absent identity we do not have our own culture, absent culture we live, today, in a state of ongoing civil death: genocide. We are a people who are buried, politically. The United States has killed our human rights and has covered us over with its own, fraudulently, by trick and by duress. We were buried and hidden, so very much so the United Nations in making its laws has left us out, it seems. It is not known immediately where we fit. In the United States, we, the so-called African-Americans, mimic the human rights of the majority; but in reality, we are in the position of a minority, as every scholar knows.

9. In conclusion, we pray for compensation in the form of reparations. We ask that the United States pay reparations to the so-called African-Americans, since the United States cannot restore our "mother tongue" if ever it wanted to. Nor can the United States continue, illegally, to choose and force one upon us, which it has done for the last 400 years. The United States should be held liable, at least for the last 51 years, plus the additional years which are needed to resolve this issue. We ask that the United Nations place this reparation sanction upon the United States if the identity and language of minorities and Peoples are to be preserved. The precise dollar amount will not herein be stated, but will be presented when we are satisfied that the gravity of our argument, in the eyes of the United Nations, warrants it. Along with a dollar amount, we will ask for the release of a number of African-American human rights victims who have been unjustly incarcerated in federal and state penitentiaries. Finally, we ask that the United Nations impose a sanction on the United States in the form of exemption of all taxation upon our people for as long as this issue is in the hands of the United Nations.



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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by the International Movement of Apostolate
in the Independent Social Miliéux, a non-governmental organization in
special consultative status

The Secretary-General has received the following written statement which is circulated
in accordance with Economic and Social Council resolution 1996/31.

[16 December 1999]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

1. The relationship between action to combat poverty, the search for greater social justice, and the establishment of universal and lasting peace is laid down in the 1919 Constitution of the League of Nations, the Universal Declaration of Human Rights of 1948 and the preambles to the International Covenants of 1996. However, for a long time, the United Nations system has considered extreme poverty to be an economic phenomenon, coming under human needs, and not as a violation of all human rights, as was pointed out by Father Joseph Wresinski to the Commission on Human Rights in 1987.

2. Fortunately, the efforts of the General Assembly and the Commission since the 1990s, the World Conference on Human Rights (Vienna, 1993) and the World Summit for Social Development (Copenhagen, 1995) have led States to declare that the eradication of extreme poverty was becoming a necessary and priority action in the world. As a result, the period 1997-2006 was declared the United Nations Decade for the Eradication of Poverty.

3. We welcome all these efforts to highlight this humanitarian ideal, but mankind does not expect it to be realized in the near future. According to the UNDP report for 1997, and as we ourselves said at the fifty-fourth session of the Commission, "We are the first generation to have the human, technical and financial capabilities to eradicate extreme poverty in one generation". We have spread this good news throughout our 35 movements and everywhere around us, but we also would like to put this question to the conscience of mankind: "We are the first generation with the ability to eradicate poverty, but will we be the first with the will to do it, the first actually to do it?"

We believe that this desire coupled with action must be included on the agenda of the Commission's fifty-sixth session, as indeed we hope they will be incorporated in the evaluation of the World Summit for Social Development to be held next June.

We know that this will not be simple. We are aware of the considerable opposition that has been mounted by certain covert interests in this body and by short-sighted calculations that pay little heed to future generations. We know that in the international community there are individuals, NGOs and States that believe in the strength of human rights, both in will and action. We also know that we will have to overcome the lack of public faith, fatalism and corporatism. That is where the mission of our movement - the International Movement of Apostolate in the Independent Social Milieux (MIAMSI) - comes into play; our aim is to sensitize our social milieux and those in which the major players of civil society, politics and NGOs are to be found at the local, national and international levels.

4. We have been modestly but firmly involved in these tasks of awareness and conscience-raising, empowerment and evangelization for more than 50 years. Over the last few years we have included the promotion of human rights, with emphasis on poverty and universal solidarity, among our priorities.

5. With respect to the research and action that we undertake in this sensitization to poverty, we would simply mention one for each region:

Our assembly in Latin America centred on the right to work: "human dignity is achieved through the right to work". Deprivation of work, unsuitable work and work done in

inhuman conditions affect health, education, leisure and family life. In other words, the main economic, social and cultural rights of the vast numbers of people concerned in Latin America are affected.

At the two meetings which brought together delegates from our movements in South Africa, Madagascar, Mauritius, the Seychelles and Reunion, the discussion focused on the situation of regional migrant workers, from the economic and human points of view. All the countries of this region have more or less successfully established market economies. Often, this has increased material and human poverty rather than reduced it, as was promised. Migration of labour is one of the solutions promoted by companies because of the presence of free zones. Our movements are of the opinion that migration of labour should not be to the detriment of workers' rights, and they have conducted a survey on their situation. Challenges have been issued and public opinion questioned. We hope that the Commission on Human Rights will continue to awaken the conscience of mankind.

During the general elections in India, our movement worked alongside Christians in order to raise their civic awareness regarding respect for human rights, in connection with the caste system and the rights of Christian dalits.

Our European movements have all joined the Jubilee 2000 debt cancellation campaign. They have supported NGOs in their "Putting Life Before Debt" motion which they presented to the Council of Europe. The reduction, or even cancellation, of the external debt of the world's poorest countries is not just an ethical issue, it is also a question of good governance of the world economy and of the economies of the countries concerned. It is also a question of long-term profitability for creditor countries. However, there is need for increased international efforts in this regard. Many of our people in Europe are willing to shoulder a share of the financial burden relating to debt cancellation, on condition that these resources are used for the realization of economic, social and cultural rights, and not to swell corruption. Reducing poverty will favour the sustainable growth of the world economy.

Other situations observed in various countries, all linked to poverty, such as corruption, violence and illegal immigration, contribute to a lack of satisfaction among all our populations, even in the more affluent milieux with which we are in contact.

6. In our efforts to raise awareness of human rights, especially economic, social and cultural rights which are less well-known, in our attempts to change collective attitudes and local, national and international structures so as to achieve greater practical and tangible respect for human rights, we must bear in mind the diversity of the people we address. They do not live in extreme poverty; many of them are rich. Generally speaking they have the means, the knowledge and the power, but have different attitudes to human rights and poverty.

Some are very much at ease with liberal thought; the terms "freedom", "individuals" and "individual responsibility" form the basis of their view of human rights and the way in which the world operates.

Others think that fundamental freedoms and human rights can only be enjoyed through collective contracts, domestic laws, and international conventions and covenants.

Some approve and others disapprove of attempts to shield the operation of the world economy from the regulatory mechanisms that the world tries to establish.

Some have an almost religious belief that the race for unending profits will lead to growth in wealth from which the poor will also benefit.

Others think that other mechanisms need to be implemented in order to enable all mankind to benefit immediately from recent technological progress.

We have been engaging in dialogue with these different groups to inform them of the efforts being made by international bodies, such as this Commission in conjunction with other United Nations agencies, in order to enable them to feel part of these efforts and increasingly to consider themselves as citizens of the world in addition to being local and national citizens, so that they will fill the gaps in their knowledge of human rights.

7. For a short time now, in our discussions with them, we have been stressing an idea which has been gaining ground in national and international organizations (Economic and Social Council, UNDP, Council of Europe, etc.) and which we owe largely to Father J. Wresinski and to the International Movement ATD Fourth World. That is the poor and the excluded should be allowed the right to express their needs and proposals themselves (see report on human rights and extreme poverty by Léandro Despouy; E/CN.4/Sub.2/1996/13).

8. For the year 1999/2000, our international campaign of analysis and action is entitled "How do we use our freedom to contribute to eradicating poverty and thereby build a world of greater solidarity, a world such as God wishes?" We are thus inviting our movements to become more involved in the fight against poverty, by being creative and proposing original and specific alternatives.

9. Our congress to be held in October 2000 will allow our members to compare the situations, initiatives and proposals from different continents on the topics of poverty, solidarity and justice, and to mobilize in order to tackle this enormous challenge.

This is why we are calling on the Commission to further extend its efforts in this regard and adopt resolutions which will enable States to be addressed by the poor people themselves and to take action in the framework of the United Nations Decade for the Eradication of Poverty.

10. We are calling on the Commission to encourage States to give an account, at the fifty-seventh session, of their decisions relating to the ability, the will and action to commence and continue poverty eradication.

11. We welcome the progress made in terms of coordination between all international bodies so that each in its area makes a more effective contribution to taking up the great challenge of poverty eradication. The enjoyment of all our rights depends on it.



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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF:
CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement*/ submitted by War Resisters International,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[3 November 1999]

*/ This written statement is issued, unedited, as received from the
submitting non-governmental organization(s).

CONSCIENTIOUS OBJECTION, DRAFT EVADERS AND DESERTERS

My organisation has made a survey of the situation of young people refusing military service in each country. The Title is : REFUSING TO BEAR ARMS. It can be obtained at WRI Office 5 Caledonian Road, London, England N1 9DX. It appears that the legal provisions and practices vary very widely from country to country.

A legal status for Conscientious Objectors and an alternative service exist in the European Union and in candidate states to the EU : Czech Republic, Slovakia, Slovenia, Poland, Hungary and in the Baltic Republics :Lithuania, Latvia, Estonia. It appears also in some Eastern European countries : Romania, Bulgaria, Ukraine, Yougoslavia, Croatia, Bosnia and in 2 Asian Moslem Republics :Azerbaijan, Uzbekistan. It appears also in Australia. In 3 countries, Paraguay, Russia, Bielarus there is an article in the constitution but no implementing law for a status on Conscientious Objection and alternative service.

In the rest of the world there are no legal provisions for refusing the military service. Those not responding to the call up are subjected to months or even years of prison. Those deserting the army are punished by many years of jail and even death in war time.

These condemnations are in contravention of article 3 of the Universal Declaration on Human Rights which recognises the right to life, liberty and security of person. Those who reject the army refuse to put in danger the life of others and their own life.

These condemnations are also in contradiction of article 18 of the Universal Declaration and of the Covenant on Civil and Political Rights which acknowledges the right to freedom of thought, conscience and religion.

The Commission on Human Rights has adopted resolution 1998/77 (E/CN4/1998/L93) which recognises the right to Conscientious Objection. My organisation urges that the resolution could be implemented in the legal provisions of each country and put into practice as soon as possible. It cannot be admitted any longer that so many young men throughout the world should endure such painful fate as they only want to refuse violence and bring peace to the world. Their message is **the abolition of armies** and it is high time to listen to them.
